THE UNIVERSITY OF CHICAGO
STUDIES IN ECONOMICS

Published under the Direction of
THE DEPARTMENT OF ECONOMICS
THE UNIVERSITY OF CHICAGO

PROPERTY TAXATION IN THE UNITED STATES

THE UNIVERSITY OF CHICAGO PRESS
CHICAGO, ILLINOIS

THE BAKER & TAYLOR COMPANY
NEW YORK

THE CAMBRIDGE UNIVERSITY PRESS
LONDON

THE MARUZEN-KABUSHIKI-KAISHA
TOKYO, OSAKA, KYOTO, FUKUOKA, SENDAI

THE COMMERCIAL PRESS, LIMITED
SHANGHAI

PROPERTY TAXATION IN THE UNITED STATES

By

JENS PETER JENSEN

Professor of Economics
University of Kansas

THE UNIVERSITY OF CHICAGO PRESS
CHICAGO · ILLINOIS

COMPOSED AND PRINTED BY THE UNIVERSITY OF CHICAGO PRESS
CHICAGO, ILLINOIS, U.S.A.

PREFACE

In 1888, when Professor Ely published his pioneer work, *Taxation in American States and Cities*, he lamented the scarcity of literature in the field of public finance. There is now no such scarcity, whether in the general field or in the more restricted field of property taxation. There is, in fact, an enormous amount of writing on the general property tax alone. The material, however, is of varying quality and is not conveniently available, being scattered, fragmentary, and overlapping. The present volume is offered as an attempt to present in organized form the essential aspects of property taxation in the United States.

The so-called general property tax is largely indigenous in the United States. Though almost universally criticized as being unsound in principle and impossible in practice, it has been, and continues to be, the backbone of both state and local tax systems, and almost the sole source of local revenue. Though numerous changes in detail occur each year and changes in principle occasionally, the net change over a period is small. Though some property is "classified" for differential taxation in about one-half of the states, the principle of uniformity of taxation of all property has been abandoned in only a few states. It would seem that a tax that has for two or three centuries performed the function of almost sole revenue-producer for all the states and their subdivisions deserves a more comprehensive treatment than such as can be given in pamphlets, magazine articles, official reports of tax commissions, and monographs on state and local tax systems.

Scholars and experts in the field of taxation will find relatively little new material in the present book. It is offered in the hope that it may be useful to anyone interested in taxation. Sound tax reform, particularly reform of property taxation, depends upon a much wider and more popular understanding of the flaws and merits of existing state and local tax systems, and of practical changes and alternatives, than now prevails. For this reason the treatment is much more detailed than would have been proper had the book been designed primarily for the savant.

This study was begun nearly ten years ago at the University of Chicago. The universities of Chicago and Kansas have both assisted me in the work by means of support and encouragement, which are heartily appreciated. My special appreciation and thanks are due to H. A. Millis, Jacob Viner, Simeon E. Leland, and H. C. Simons, of the University of Chicago, all of whom have read the manuscript in the various stages, and have offered valuable constructive criticism.

It is too much to hope that I shall have avoided all errors, inaccuracies, and infelicities of expression; and for such as occur I must accept responsibility. In a treatise on a tax system, varying from state to state, and from year to year, over a period of nearly three centuries, perfection is perhaps not possible. It is hoped, nevertheless, that the picture presented of the general property tax is true in the essential aspects.

JENS P. JENSEN

CHICAGO
June 8, 1931

CONTENTS

		PAGE
List of Tables		xi
CHAPTER		
I.	The Fiscal Importance of Property Taxes	1
II.	Development of Taxation of General Property	19
III.	Theory of the General Property Tax	48
IV.	Existing Definitions of Taxable Property	100
V.	Exemptions	125
VI.	The Uniformity Rule	160
VII.	The Classified Property Tax	173
VIII.	Taxation of Financial Organizations	204
IX.	Taxation of Special Forms of Capital and Land	218
X.	Segregation and Separation of Revenue Sources	243
XI.	The Inventory	261
XII.	Undervaluation and Inequalities in Valuation	281
XIII.	Collection and Delinquency	307
XIV.	The Local Assessment	331
XV.	Equalization	361
XVI.	Central Control of the Assessment	392
XVII.	Central Assessment	415
XVIII.	Possibilities for Improved Assessments	439
XIX.	Tax Rates and Tax Rate Limitations	459
XX.	Conclusions	478
Bibliography		493
Index		517

LIST OF TABLES

TABLE NO.		PAGE
1.	Taxes and Special Assessments Received by the States (Including the District of Columbia) and Political Subdivisions, 1902–27	2
2.	Yield, Aggregate, and per Capita of Property Taxes Collected by the States and Their Political Subdivisions, 1860–90	3
3.	Taxes and Special Assessments Received by the States, for Selected Years	4
4.	Distribution of States According to the Ratio of the Revenue from Property Taxes to Revenue from All Taxes and Special Assessments, by Geographic Divisions, 1927	5
5.	Taxes and Special Assessments Received by Counties	6
6.	Distribution of States According to the Average Ratio of Property Taxes to All Taxes and Special Assessments in the Counties of Each State, by Geographic Divisions, 1922	6
7.	Distribution of Counties in Minnesota and Iowa According to Ratio of General Property Taxes to All Taxes and Special Assessments, 1922	8
8.	Taxes and Special Assessments Received by Cities, 1902, 1912, and 1922	9
9.	Average Ratios of Property Taxes to All Taxes and Special Assessments of All Cities in Each State, by Geographic Divisions, 1922	9
10.	Taxes and Special Assessments Received by Cities of 30,000 or More Population, Specified Years	10
11.	Amounts of Taxes and Special Assessments, for Specified Divisions, 1922	12
12.	Taxes and Special Assessments Received by Local Political Divisions, Other than States, Cities, and Counties, 1902, 1922	12
13.	Property Tax Revenue for Local Purposes and Percentages Such Revenue Was of Total Tax Revenue, 1926–28	13
14.	Distribution of States and District of Columbia According to Percentages Property Taxes Were of Total Tax Revenue, 1926–28	14

TABLE NO. PAGE

15. Taxes Collected by All Governmental Units, upon Property and Not upon Property, and Percentages These Were of National Income, 1927 17
16. Net Rent per Acre, Taxes per Acre on Cash-rented Farms, and Relationship of Taxes to Net Rent, in Thirteen States, 1919 and 1924 70
17. Value per Acre, Taxes per Acre of Cash-rented Farms, and Relationship of Taxes to Value in Thirteen States, 1919 and 1924 71
18. Percentage Rent Was of Value of Selected Cash-rented Farms in Thirteen States, 1919, 1924 72
19. Value of Farm Property, Earnings, and Taxes per Acre, 1909–28 74
20. Full Value of General Property per School Census Child in Wisconsin, 1927 79
21. Taxes Paid on Farm Land and Buildings of Owner-operated Farms, Expressed as Percentages of Value of Land and Buildings, Showing Average Percentage for Each Geographic Division, and Average for High and Low States in Each Division, 1924 81
22. Counties or Districts within Specified States in Which Property Taxes on Farm Property Took High and Low Percentages of Net Income, for Specified Years 82
23. Average Property Tax Rates in Certain Cities, 1922–30 . 87
24. Taxes on Farm Real Estate: Relative Change by Geographic Divisions, 1924–28 89
25. Taxes on Farm Property of Owner-operated Farms, Expressed as Percentages of Net Return, by Geographic Divisions, 1922–27 93
26. High and Low Percentages Taken by Property Taxes of Net Rent in Twelve States, Specified Years 94
27. Percentage of Real Property Exempt in the United States, by Geographic Divisions, Selected Years 126
28. Percentage of Real Property Exempt in Selected States, Selected Years 127
29. Percentage of Real Property Exempt, New York, by Counties, 1918 129
30. Exempt Real Property in New York State, 1915, 1918, 1923, 1926, and 1928, Classified According to Political Divisions 131
31. Exempt Real Property in New York State, Selected Years, Classified According to Use 132

TABLE NO. PAGE

32. Percentage of Exempt Property Publicly Owned and in Private Hands in Specified States, 1923–25 139
33. Cities and Towns of New York State Classified According to Ratio of Exempt to Taxable Real Property, 1925 . . 144
34. Provisions Relating to the Classified Property Tax in States without the Constitutional Uniformity Rule, 1931 . 175
35. Number of Persons Assessed, Assessment, and Revenue under the Minnesota 3-Mill Tax on Money and Credits . 180
36. Montana Classified Property Tax Schedule 181
37. Assessments and Revenue from Money and Credits in Montana, Selected Years 182
38. Classification of Property for Taxation in Ohio, 1931 . . 183
39. Kentucky Systems of Classification of Property for Taxation, 1917 and 1924 185
40. Assessed Valuations of Specified Classes of Property in Kentucky, Expressed for Selected Years as Percentages of the Corresponding Valuations for 1917 186
41. Percentages of State Revenue in Kentucky Borne by Each Class of Property for the Years 1917, 1920, 1923, and 1924 187
42. Assessments of Intangibles and Revenue Therefrom under the Classified Property Tax in Kentucky for Selected Years 187
43. Assessments and Revenue from Intangible Property in Virginia Subject to the Classified Property Tax in Selected Years 189
44. Assessment and Revenue from Intangibles, Subject to the Classified Property Tax in Pennsylvania, Specified Years 191
45. Assessment and Revenue from Intangibles, Subject to the Connecticut 4-Mill Tax, Specified Years 192
46. Assessments and Revenue from Intangibles, Subject to the 4-Mill Tax in Maryland, Specified Years 193
47. Solvent Credits Listed in North Carolina, per Capita, Percentage of Total Property Assessed, and Compared with Index of Listable Intangibles, 1921–27 202
48. Taxes on Savings Bank Deposits, and Their Ratio in 1916 to Gross Earnings in Specified States 215
49. Descriptive Classification of Real Estate, as Prescribed by the Kansas State Tax Commission, 1911 223
50. Delinquency in Collection of Taxes and Special Assessments in Percentages of the Current Levies, Selected Years, in Sixteen Northeastern Counties of Minnesota . 227

TABLE NO. PAGE

51. Unplatted Land, Tax-Paying, Tax-Delinquent, and Tax-Exempt, 1926, in Sixteen Northeastern Minnesota Counties 228
52. Trend in Delinquent Area of Acreage Real Estate, 1918–28, Index Number for Selected Counties in Oregon and Washington 229
53. Comparison of Assessor's "Full and True" Value with Appraised Value in Selected Minnesota Towns, 1926 . . . 230
54. Tax System of New York, as of September 1, 1929, Showing Collections for Fiscal Year Ended June 30, 1928 . . . 245
55. Amounts and Sources of Tax Revenue Collected in California by the State for State and Local Purposes, and Local Taxes Locally Collected, Specified Years 246
56. Tax Rates for School and City Purposes of Third-Class Cities in Kansas, 1922 248
57. Per Capita Valuation, Tax Rates, and per Capita Levies in Four Selected Cities in Minnesota, 1922 251
58. Rates of State Taxes on California Corporations, 1912–28 257
59. Ratios of Livestock Assessed to Number Estimated by United States Bureau of Crop and Livestock Reports in Colorado, 1925 and 1928 271
60. Assessed Valuation of Intangibles before and after the Imposition of Low-Rate Taxes in Specified States . . . 274
61. Comparison of per Capita Assessments of Intangibles in States Taxing Intangibles at Low Rates with Similar States Taxing Intangibles as General Property, and Ratios to Bank Deposits and to Loans and Discounts, 1927 276
62. Distribution of States According to Percentage of Estimated Required Value Represented by the Assessed Value, for Selected Years; also Median Percentage for Each Year 284
63. Assessment Ratios of Real Property in Iowa, Minnesota, Nebraska, Wisconsin, and Indiana 287
64. Distribution of Counties According to Ratio of Equalized to Full Value in Michigan for Selected Years 288
65. Average Assessed Values per Acre of Land Separated by Township Lines, in Certain Townships in Kansas . . . 288
66. Ratios of Assessments to Sale Prices of All Classes of Real Estate in West Virginia Counties, 1929 290
67. Ratios of Appraised to Sales Value of Individual Parcels of Property in Cook County, Illinois, 1923 and 1926. Number of Parcels and Percentage of Properties in Each Ratio Group 293

TABLE NO. PAGE

68. Ratio of Assessed to True Value of Land and Lots, in Thirty-six Indiana Counties 294
69. Assessed Valuation of 10,307 Parcels of Kansas Farm Real Estate in Percentage of Sale Price, by Value Groups and by Years, 1913–22 294
70. Average Ratio of Assessed Value to Sale Value of 577 Farms in Southeastern Minnesota, Grouped According to (1) Sale Value per Farm, (2) Size of Farm, and (3) Value per Acre, 1924–27 296
71. Assessment Ratios of Cities and Counties, Virginia, 1914 . 298
72. Ratio of Assessed to Sales Values of Real Estate in Selected Illinois Counties, 1924–28 298
73. Comparison of Assessment Ratios of Farm and City Real Estate in Kansas, 1913–22 299
74. Average Coefficient of Dispersion of Ratio of Assessment to Sale Price (1) of Farm Real Estate in Ten Counties and (2) City Real Estate in Six Cities, in Kansas, 1913–22 . . 299
75. Excess Tax, or Tax Relief, on Account of Deviations in the Assessment Ratio from the Average Ratio in Kansas, 1913–22 300
76. Ratio of Assessed to True Valuation of Personal Property, Classified by Occupational Groups, in Racine and Monroe Counties, Wisconsin, 1907 302
77. Assessment Ratios of Chicago for 1923, 1927, and 1928, by Classes of Properties 303
78. Taxes on Duplicate and Taxes Delinquent in Ohio, 1922–29 319
79. Gross Levy, Land Advertised, and Land Sold for Taxes in North Carolina, by Sections, 1928 321
80. Property Taxes Extended and Uncollected in Cook County, Illinois, 1922–28 323
81. Percentage of Delinquent Personal Property in Montana, 1923 325
82. Specified Characteristics of Local Assessment in the States and the District of Columbia, 1930 332
83. Existing State and Local Agencies for Equalization, 1931 . 364
84. Hypothetical Assessment Ratios of Property Showing Effect of Equalization Where Intracounty Average Deviations Vary 386
85. Results of Revision of "Full-Value" Assessments of 2,056 Properties by Cook County Board of Review, 1923–26 . . . 388
86. Tax Commissions or Other Chief State Administrative Bodies, 1930 396

TABLE NO. PAGE

87. Number of Counties in Percentage Groups Representing the Ratio of Equalized to Full Value, Michigan, 1911 and 1914 406
88. Effects of Cook County Reassessment as Shown by Changes in the Distribution of Assessment Ratios of Property in Chicago, 1926–28 411
89. Comparison of Assessment Ratios in Chicago before and after Reassessment, Extreme High and Low 412
90. Tax Rates on Property Taxable in the Town of North Chicago within the City of Chicago, for 1928 Taxes . . . 467
91. Tax Levy Complaints Filed with and Reductions Made by Indiana Tax Commission, 1921–29 476

CHAPTER I

THE FISCAL IMPORTANCE OF PROPERTY TAXES

From a fiscal point of view property taxes are now and always have been more important than any other tax, and for state and local purposes in the United States, more important than all other taxes together. To this general statement there are only insignificant exceptions that existed in the primitive frontier conditions prior to statehood. The statement is not true for the colonial period, for in some of the colonies property taxes may scarcely be said to have existed at all. But property taxes are not all alike; they probably never have been alike in any two states. They have never long remained unchanged in any one state. Sometimes the changes have been frequent and fundamental. It is, therefore, no simple task to describe and appraise the existing systems and the changes that preceded them.

It has long been customary to comprehend property taxes in the United States under the name of the *general property tax*, whose ruling concept is that *all* property is valued *uniformly* and taxed at a *uniform* rate in each taxing jurisdiction. This concept is and has been unquestionably the outstanding characteristic of American property taxation. It contrasts sharply with the concepts of property taxation in practically every other part of the world. Nevertheless, in practice, the exceptions to the general concept are so numerous and so varied as to demand extensive discussion. The following statistical data, therefore, refer to all property taxes and not merely to those that might properly be called "general property taxes." They do not refer, however, to what the Bureau of the Census has chosen to call special property taxes, i.e., special taxes on bank stock and insurance companies.

In an inquiry concerning the extent of property taxation, the several political divisions should be considered separately. The federal treasury has never used the general property tax; nor, except on a few unfortunate occasions, has it used property taxes at all. These isolated federal property taxes are not considered here.

I. STATES AND SUBDIVISIONS

For both state and local purposes property taxes are by far the most important source of revenue. The yield of all taxes, both absolutely and per capita, has risen rapidly since 1902, because of higher price

TABLE 1

TAXES AND SPECIAL ASSESSMENTS RECEIVED BY THE STATES (INCLUDING THE DISTRICT OF COLUMBIA) AND POLITICAL SUBDIVISIONS, 1902–27

YEAR	All Taxes and Special Assessments		Property Taxes		
	Amount (in Millions)	Per Capita	Amount (in Millions)	Per Capita	Percentage of All Taxes and Special Assessments
1927*	$5,723	$48.64	$4,531	$38.50	79.2
1922†	4,221	38.82	3,321	30.55	78.7
1912‡	1,364	14.09	1,183	11.20	79.4
1902§	861	10.95	707	8.35	82.1

* National Industrial Conference Board, *Cost of Government in the United States, 1927–1928*, p. 109. The figures for 1927 are not strictly comparable with those of the Bureau of the Census for the earlier years. What the exact amount is must always be a matter of controversy, partly because the list of reporting local tax-levying agencies is never complete. Professor S. E. Leland placed the aggregate amounts of all state and local government revenue at $6,658,000,000 for 1927 and that part thereof, which consisted of property taxes at $5,239,000,000, or 79.6 per cent. Address before National Association of Real Estate Boards, Phoenix, Arizona, January 23, 1930, reprinted in *Bulletin of the National Tax Association*, XV, No. 7, 201–3, 234–42. Hereafter referred to as *Bulletin*.

† Bureau of the Census, *Wealth, Public Debt, and Taxation: Taxes Collected, 1922*, p. 12.

‡ *Ibid., 1913*, p. 12. § *Ibid., 1907*, p. 968.

levels and expanded public services. Table 1 shows the total and per capita yield of all taxes, the yield of property taxes, the per capita yield for both, and the percentage property taxes composed of all taxes, for selected years. The relative importance of property taxes has not changed greatly; but the percentages declined from 82.1 in 1902 to 79.2 in 1927. The decline, as will appear, is confined to the states, the local units tending to become more than ever dependent upon property taxes.

The exact comparisons made by the Bureau of the Census do not extend back of 1902. The yield of the taxes on property may, however, be carried back for several decades, as shown in Table 2. In this table, as in many subsequent tables, the per capita figures are more significant

than the absolute amounts, since they allow for the increase in population. They do not, however, allow for differences in price level of the different years. Because of this and also because of the increase in the per capita taxable wealth, as well as because the data are not quite comparable, the increase in the per capita receipts from property taxes from $3.00 in 1860 to $30.55 in 1922 and to $38.50 in 1927 should not be taken as a measure of the burden of property taxation.

TABLE 2

YIELD, AGGREGATE, AND PER CAPITA OF PROPERTY TAXES COLLECTED BY THE STATES AND THEIR POLITICAL SUBDIVISIONS FOR SELECTED YEARS*

Year	Amount	
	Aggregate (in Millions)	Per Capita
1890	$471	$7.53
1880	314	6.26
1870†	226	5.87
1860	94	3.00

* Bureau of the Census, *Assessed Valuations of Property and Amounts and Rates of Levy, 1860–1912.*

† Reduced to a gold basis.

The foregoing table and most of the following tables in this chapter show the extent to which general property taxes supply that part of the public revenue for which there is no specific return to the payer. They are supplemented by other taxes such as those on income, inheritances, and motor fuels, some of which are fiscally important to certain states and for which also there is no specific return. But these supplementary taxes are not the primary object of this study. The remainder of the revenue is largely commercial in character, consisting chiefly of receipts from public service enterprises. These receipts are excluded from the comparison, for three reasons: first, they are largely offset by cost payments, and leave little or no surplus for general public functions; second, they are not a burden in quite the same sense as taxes; and, finally, there is considerable variation among the several political divisions as to the extent to which they have municipalized their public service enterprises—this variation would be a disturbing element in the comparison.

II. THE STATES

Table 3 shows the relatively decreasing extent to which property taxes are used by the states as such; this decrease is due primarily to the development of new sources of state revenue.

Among the several states there is, however, wide variation in the extent to which property taxes constitute the primary source of state revenue, as may be seen for 1927 from Table 4. A few states, their number varying with the years,[1] imposed no property taxes for state purposes. In general, it is in the more highly industrialized states with a large urban population that the general property tax has declined, making room for more diversified systems. But to this rule there are exceptions such as Illinois, where in 1927, 48.5 per cent of the state revenue from taxes and special assessments still consisted of property taxes. In that state the backward condition of the tax system is responsible for the heavy property taxation. The states of the South Central and the Mountain divisions tend to rely heavily on property taxes, while to a large extent the New England, the Middle Atlantic, and the South Atlantic divisions have recourse to other taxes. In the southern states this is partly explained by their resort to a great variety of business

TABLE 3

TAXES AND SPECIAL ASSESSMENTS RECEIVED BY THE STATES, FOR SELECTED YEARS

Year	All Taxes and Special Assessments		Property Taxes		
	Amount (in Millions)	Per Capita	Amount (in Millions)	Per Capita	Percentage of All Taxes and Special Assessments
1927*	$1,382	$11.78	$370	$3.16	26.8
1922†	868	8.01	348	3.22	40.1
1912‡	307	3.16	140	1.44	45.9
1902§	159	1.98	82	1.02	51.0

* Bureau of the Census, *Financial Statistics of States, 1927*, pp. 14 ff.

† Bureau of the Census, *Wealth, Public Debt, and Taxation: Taxes Collected, 1922*, p.12.

‡ *Ibid., 1913*, Vol. II.

§ *Ibid., 1907*.

[1] California, North Carolina, and Pennsylvania, in 1927.

taxes, while, elsewhere, corporation, income, inheritance, and other taxes are heavily used.

III. THE COUNTIES

While the fiscal importance of property taxes to the states has declined, the importance to the counties, where property taxes have always furnished more than 90 per cent of all tax revenue, has grown, as is seen in Table 5.[1]

TABLE 4

DISTRIBUTION OF STATES ACCORDING TO THE RATIO OF THE REVENUE FROM PROPERTY TAXES TO THE REVENUE FROM ALL TAXES AND SPECIAL ASSESSMENTS, BY GEOGRAPHIC DIVISIONS, 1927*

Geographic Division	Percentage Property Taxes Were of All Taxes and Special Assessments								
	Less than 10	10–19.9	20–29.9	30–39.9	40–49.9	50–59.9	60–69.9	70 and Over	Total
New England	1	2	1	1	1	.....	.....	.....	6
Middle Atlantic	1	1	.....	.....	.....	1	.....	.....	3
East North Central	1	1	.....	.....	3	.....	.....	.....	5
West North Central	.....	1	.....	1	2	3	.....	.....	7
South Atlantic	2	2	3	1	.....	.....	.....	.....	8
East South Central	.....	.....	1	2	1	.....	.....	.....	4
West South Central	1	.....	2	1	.....	.....	.....	.....	4
Mountain	.....	.....	.....	1	3	2	1	1	8
Pacific	1	.....	1	.....	.....	1	.....	.....	3
Total 1927	7	7	8	7	10	7	1	1	48
Total 1922	2	4	2	6	6	3	16	9	48

* *Financial Statistics of States, 1927*, pp. 60–67.

How sparingly the counties use other taxes than those on property is also shown in Table 6. In thirty-five states the average yield of county property taxes amounted to over 90 per cent of the average county revenue from all taxes and special assessments, and in exactly one-half of the states it exceeded 95 per cent. In no one state was the yield to the counties from property taxes less than 75 per cent. The counties rely uniformly and heavily upon the general property tax. Four New England states assign no other tax revenue to the counties

[1] There are no comparable data for later years.

than that accruing from property taxes. However, the fact that Connecticut counties derived only 78.7 per cent of their tax revenue from this source is not significant when it is remembered that the total county tax revenue amounted to only 80 cents per capita in that state.

TABLE 5

TAXES AND SPECIAL ASSESSMENTS RECEIVED BY COUNTIES

Year	All Taxes and Special Assessments		Property Taxes		
	Amount (in Millions)	Per Capita	Amount (in Millions)	Per Capita	Percentage of All Taxes and Special Assessments
1922*...............	$745	$7.67	$687	$7.07	92.1
1912†...............	308	3.60	282	3.29	91.1
1902‡...............	160	2.03	143	1.85	91.1

* *Wealth, Public Debt, and Taxation: Taxes Collected, 1922*, p. 12.

† *Ibid., 1913*, II, 12.

‡ *Ibid., 1907*, p. 968.

TABLE 6

DISTRIBUTION OF STATES ACCORDING TO THE AVERAGE RATIO OF PROPERTY TAXES TO ALL TAXES AND SPECIAL ASSESSMENTS IN THE COUNTIES OF EACH STATE, BY GEOGRAPHIC DIVISIONS, 1922

Division	Number of States in Which Specified Percentages of All Taxes and Special Assessments Consisted of General Property Taxes					
	75–79.9	80–84.9	85–89.9	90–94.9	95 and Over	Total
New England...	1	....	....	....	5	6
Middle Atlantic.	....	....	....	2	1	3
East North Central..........	1	....	....	2	2	5
West North Central..........	1	2	1	2	1	7
South Atlantic..	....	1	....	....	7	8
East South Central..........	....	....	1	3	....	4
West South Central..........	1	....	2	....	1	4
Mountain.......	1	....	1	1	5	8
Pacific.........	....	....	....	1	2	3
Total......	5	3	5	11	24	48

Here, as elsewhere in New England, the county is an unimportant unit. In Vermont, the county revenue amounted to only 15 cents per capita, while in Rhode Island there is no county fiscal organization at all. In other states the counties, measured by their per capita tax revenues, are much more significant administrative units. Thus in California the county per capitá tax revenue was $20.21 and in Nevada $41.01. The average for all the states was $7.67.

Among the counties within each state the variation in the ratio of the general property tax to the total tax revenue is usually small. But in a few states it is considerable; it depends upon the other sources of tax revenue available. In general, these other sources are four: special taxes, poll taxes, charges for licenses and permits, and special assessments. Special taxes, such as inheritance, corporation, income, and other taxes, are assigned to the counties in only about ten states and always in small amounts except in Maryland, Michigan, and Wisconsin, where the amounts in 1922 were 34, 37, and 53 cents per capita, respectively. In no state do the counties themselves levy and administer these taxes, but the revenue from them is distributed to the counties by the state. Poll taxes are collected by the counties in uniformly small amounts in about one-half of the states. In nearly all states charges for licenses and permits in small amounts accrue to the counties, which also use special assessments in varying degrees. In New Hampshire, Maine, and Vermont the counties have no other tax revenue than that provided by the general property tax. In Missouri in 1922 every county derived over 99 per cent of its tax revenue from property taxes, while charges for licenses and permits were the only other source. In Illinois, where charges for licenses and permits and poll taxes are both used, the variations were only slightly more conspicuous, only one county[1] relying for its tax revenue on property taxes to a percentage less than 90, and only three to a percentage between 90 and 9.5[2]

It is in states where special assessments are freely used that varia-

[1] Jackson County, 87.9 per cent.

[2] Unfortunately, the figures for county tax revenues cannot be brought down to date. The 1922 report of the Bureau of the Census, is the latest, covering approximately all local units. Toward the close of the chapter, estimates of tax collections of all local units for 1927 are given.

tions in the use of property taxes are large. Thus, in Minnesota, where only special assessments are used in addition to property taxes, and, in Iowa, where licenses and permits are used as well, the distribution of counties according to their degree of reliance upon property taxes is shown in Table 7.

IV. THE CITIES

Fiscally, the cities are coming to be the most important political units in the United States. In them the per capita tax revenue is higher, on the average, than in any other governmental division, except the federal government in times of war. In Table 8 are shown, for the cities, the revenue from all taxes and special assessments, the revenue from property taxes, and the percentage ratio the latter bears to the former. This percentage fell from 86.7 in 1902 to 77.5 in 1912, but rose again to 82.8 in 1922, due to the inelastic character of other revenue sources, increased public functions, and the higher price level of later years. Property taxes are relatively more important to the cities than to the states, but less so than to the counties.

TABLE 7

DISTRIBUTION OF COUNTIES IN MINNESOTA AND IOWA ACCORDING TO RATIO OF GENERAL PROPERTY TAXES TO ALL TAXES AND SPECIAL ASSESSMENTS, 1922

Percentage, General Property Taxes of All Taxes and Special Assessments	Number of Counties in	
	Minnesota	Iowa
90–100	33	30
80–89.9	19	27
70–79.9	12	17
60–69.9	10	15
50–59.9	6	9
40–49.9	6	1
Total	86	99

Among the states there is considerable variation in the degree of dependence of cities upon the general property tax. The dependence, as shown in Table 9 for 1922, appears to diminish as one moves westward over the continent. The same city, however, will vary much from

year to year, chiefly because of variations in the special assessment revenue.

Within each state the cities differ in the degree of reliance upon property taxes, because of differences in the use of special assessments

TABLE 8

TAXES AND SPECIAL ASSESSMENTS RECEIVED BY CITIES (INCORPORATED PLACES WITH POPULATION OF 2,500 AND OVER), SPECIFIED YEARS

Year	All Taxes and Special Assessments		Property Taxes		
	Amount (in Millions)	Per Capita	Amount (in Millions)	Per Capita	Percentage of All Taxes and Special Assessments
1922*...............	$1,628	$24.57	$1,345	$20.30	82.8
1912†...............	848	18.60	661	14.47	77.5
1902‡...............	363	14.05	316	12.21	86.7

* *Wealth, Public Debt, and Taxation: Taxes Collected, 1922*, p. 12.
† *Ibid., 1913*, II, 12. Cities of 2,500 and over.
‡ *Ibid., 1907*, p. 968. Cities of 8,000 and over.

TABLE 9

AVERAGE RATIOS OF PROPERTY TAXES TO ALL TAXES AND SPECIAL ASSESSMENTS OF ALL CITIES IN EACH STATE, BY GEOGRAPHIC DIVISIONS, 1922 (INCLUDING DISTRICT OF COLUMBIA)*

Division	Percentages of Property Taxes to All Taxes and Special Assessments										
	50–54.9	55–59.9	60–64.9	65–69.9	70–74.9	75–79.9	80–84.9	85–89.9	90–94.9	95–99.9	Total
New England..........	....	....	....	....	....	....	2	....	3	1	6
Middle Atlantic.........	....	....	....	....	....	1	....	3	....	....	4
East North Central.....	....	....	....	1	1	2	....	1	....	....	5
West North Central.....	....	....	1	....	3	1	1	1	....	....	7
South Atlantic..........	....	....	....	....	2	3	1	....	2	....	8
East South Central......	....	1	....	....	....	....	2	1	....	....	4
West South Central.....	....	....	....	1	....	....	2	....	....	1	4
Mountain..............	1	1	2	1	2	1	....	....	....	....	8
Pacific................	....	1	1	....	....	1	....	....	....	....	3
Total.............	1	3	4	3	8	9	8	6	5	2	49

* *Wealth, Public Debt, and Taxation: Taxes Collected, 1922.*

which the cities use more freely than either counties or states. The yields of special assessments often vary widely among cities, and from year to year in the same city. Thus, in 1922, of the nearly 2,700 towns and cities having 2,500 or more inhabitants, 114 derived more than $10.00 per capita from special assessments; 28, more than $20.00; 10, more than $30.00; seven more than $40.00; and one, Shorewood, Wisconsin, $51.06. In the vast majority of cities and towns, however, the amounts are smaller, and many do not use this source, except occasionally, while the cities of a few states rarely use the special assessment. Too great reliance, for accuracy of detail, should not be placed in the

TABLE 10

TAXES AND SPECIAL ASSESSMENTS RECEIVED BY CITIES OF 30,000 OR MORE POPULATION, SPECIFIED YEARS*

Year	All Taxes and Special Assessments		Property Taxes		
	Amount (in Millions)	Per Capita	Amount (in Millions)	Per Capita	Percentage of All Taxes and Special Assessments
1927	$2,281	$53.38	$1,889	$44.21	82.4
1922	1,544	40.87	1,338	35.54	85.2
1917	826	24.82	666	20.01	80.7
1912	654	22.32	512	17.49	78.1

* *Financial Statistics of Cities.* In 1927, 250 cities; 1922, 261; 1917, 219; and 1912, 195.

percentages relating to special assessments. City accounting and business practices vary, and often the cost of special assessment projects as well as the revenue collected therefor are not included in the municipal accounts.

Much less in amount than special assessments, but much more even and regular, are the yields of license taxes and permit charges, the average amount per capita being $1.11 in 1922. Poll taxes amount to very little: the same is true of special taxes, such as income taxes, inheritance taxes, millage taxes on intangible property, and a variety of other less important taxes of which the cities in a few states receive a share.

For cities estimated to have 30,000 population or more, the Bureau of the Census publishes annual tax figures reasonably up to date. The revenue receipts from all taxes and special assessments and from

property taxes of these cities may be seen from Table 10. Comparison of Table 10 with Table 8 shows that about 95 per cent of the taxes in cities or incorporated places of 2,500 or over are collected in cities of 30,000 or over. In the former the yield of all taxes in 1922 was $1,628,000,000, while in the latter it was $1,544,000,000. In view of this preponderance of the larger cities, it is significant that the percentage of the tax revenue coming from the general property tax is smaller in the smaller cities, being 85.2 per cent in the larger cities and only 82.8 per cent in the smaller. A partial explanation is found in the fact that the general property tax is a "deficiency tax," in the sense that from it is taken what is not available from other sources. The larger the city the greater the per capita expenditure, and presumably the greater the pressure for revenue, and hence the greater reliance upon the deficiency source.

The reports of cities with population in excess of 30,000 do not cover the same number of cities, and hence furnish no basis for an estimate of the property tax revenue for all cities, even on the questionable assumption that all the cities above and below 30,000 increased their taxes in the same proportion. On the assumption that in 1927, as in 1922, 95 per cent of the tax and special assessment revenue of all cities over 2,500 was collected in cities of over 30,000, these collections in all the cities would amount to about $2,400,000,000. If the percentage coming from property taxes declined in all the cities as much as it did for the larger cities, by 2.8 per cent, that percentage would be 80 per cent. On this basis the property taxes collected in all cities over 2,500 in 1927 would be estimated at 80 per cent of $2,400,000,000, or $1,920,000,000.

V. MISCELLANEOUS UNITS

There remain to be considered the towns below 2,500 population and a number of miscellaneous districts. Their collections from all taxes and special assessments for 1922, in so far as data are available, may be seen in Table 11. To present a more complete picture of all the local taxing units the data for the cities and counties have been included. The total revenue of local taxing units from all taxes and special assessments amounted in 1922 to $3,353,000,000; and from property taxes, to $2,973,000,000 or 88.7 per cent of the former amount. The

absolute amounts are too low because of the undetermined extent of omissions of certain taxing units. But the percentage of 88.7 must indicate rather closely the use of the general property tax as the almost

TABLE 11

AMOUNTS OF TAXES AND SPECIAL ASSESSMENTS, FOR SPECIFIED DIVISIONS, 1922*

Political Units	All Taxes and Special Assessments (in Millions)	Property Taxes (in Millions)	Ratio of Property Taxes to All Taxes and Special Assessments, per Cent
Counties	$ 745	$ 687	92
Cities	1,628	1,345	83
School districts	736	733	99
Townships	149	139	94
Drainage districts	19	6	30
Irrigation districts	6	3	54
Levee districts	6	5	84
Road districts	31	28	89
Combined and other	33	27	82
Total	$3,353	$2,973	88.7

* *Wealth, Public Debt, and Taxation: Taxes Collected, 1922*, p. 77.

TABLE 12

TAXES AND SPECIAL ASSESSMENTS RECEIVED BY LOCAL POLITICAL DIVISIONS, OTHER THAN STATES, CITIES, AND COUNTIES

Year	All Taxes and Special Assessments (in Millions)	Property Taxes: Amount (in Millions)	Property Taxes: Percentage of All Taxes and Special Assessments
1922*	$981	$941	96
1902†	181	165	91

* *Wealth, Public Debt, and Taxation: Taxes Collected, 1922*, p. 12.
† *Ibid.*, *1907*, p. 968.

sole source of revenue in the local governmental units. It is especially noticeable that the school and road districts depend heavily upon the property tax.

These minor districts tend, moreover, to become more rather than less dependent upon general property taxes. At least, from Table 12 it

may be seen that such taxes constitute a larger percentage of the total tax revenue in later years. Since 1922 it has become much more common to grant state and county aid to school and other special districts than formerly. Therefore, the foregoing percentages must rather understate the degree of reliance of these districts upon property taxes at the present time, for the revenue thus granted is raised in part in the form of property taxes.

TABLE 13

PROPERTY TAX REVENUE FOR LOCAL PURPOSES AND PERCENTAGES SUCH REVENUE WAS OF TOTAL TAX REVENUE, 1926–28 (IN MILLIONS)*

Division	1926			1927			1928		
	1	2	3	4	5	6	7	8	9
	Total Tax	Property Tax	Percentage 2 is of 1	Total Tax	Property Tax	Percentage 5 is of 4	Total Tax	Property Tax	Percentage 8 is of 7
New England..	$ 357	$ 312	87.43	$ 366	$ 322	87.88	$ 375	$ 328	87.49
Middle Atlantic	1,135	1,052	92.69	1,214	1,129	92.98	1,300	1,207	92.81
East North Central.....	944	894	94.73	1,011	954	94.31	1,086	1,024	94.29
West North Central.....	476	452	94.94	487	461	94.72	505	487	94.59
South Atlantic.	348	318	91.40	372	341	91.72	387	355	91.84
East South Central.....	145	127	87.71	156	137	87.64	166	156	87.21
West South Central.....	233	216	92.95	246	229	93.01	260	239	91.73
Mountain.....	134	124	93.01	136	127	93.17	140	130	93.28
Pacific........	364	345	94.86	379	362	95.45	413	393	95.47
United States	$4,134	$3,841	92.89	$4,367	$4,061	92.98	$4,630	$4,298	92.83

* National Industrial Conference Board, *Cost of Government in the United States, 1927–1928*, pp. 102–5, Tables 44 and 45.

VI. THE DATA OF THE NATIONAL INDUSTRIAL CONFERENCE BOARD

A few years ago the National Industrial Conference Board undertook to provide data on state and local costs of government, to supplement, anticipate, and interpret the data of the Bureau of the Census, which do not cover all political units, even in their decennial publica-

tions, and which are, except for *Financial Statistics of States* and *Financial Statistics of Cities Over 30,000*, not up to date by several years. The 1927 figures of the Board covering all state and local units have been presented in Table 1. In Table 13 are given the total tax

TABLE 14

DISTRIBUTION OF STATES AND DISTRICT OF COLUMBIA ACCORDING TO PERCENTAGES PROPERTY TAXES WERE OF TOTAL TAX REVENUE, 1926–28*

Percentage Property Taxes of Total Tax Revenue	Number of States		
	1926	1927	1928
98 and over	5	5	5
96–97.99	9	8	8
94–95.99	11	11	10
92–93.99	8	10	11
90–91.99	2	3	4
88–89.99	6	4	1
86–87.99	3	3	5
84–85.99	2	1	1
82–83.99	2	3	3
Less than 82	1	1	1
Total	49	49	49
Highest percentage†	98.79	98.88	98.92
Median percentage‡	94.18	94.01	93.78
Mean percentage§	92.89	92.98	92.83
Lowest percentage¶	77.62	77.15	75.97

* National Industrial Conference Board, *Cost of Government in the United States, 1927–1928*, pp. 104–5, Table 45.

† Washington, Oregon, and California, respectively.

‡ Kansas and Ohio (tying), Wyoming, and Michigan, respectively.

§ United States, arithmetic mean.

¶ Alabama in all three years.

revenues, the property tax revenues, and the ratios of the former to the latter, as computed by the Board, for the years 1926, 1927, and 1928. The Board has excluded special assessments. For this reason the figures of collections should be lower than the figures of the Bureau of the Census, used in the preceding tables, if the latter could be completed and combined. On the other hand, the Board's ratios of property taxes to total taxes should be higher.

In Table 14 is shown the distribution of the states and the District

of Columbia according to the ratio of the revenues from property taxes to the revenues from all taxes for all local units for the years 1926, 1927, and 1928. The distribution curve is nearly identical for all three years, being somewhat skewed downward as shown by the difference of about 5 per cent between the median and the extreme high percentages, and the difference of about 18 per cent between the median and the extreme low. Perhaps no significance attaches to the slightly wider spread between the extremes in 1928 than in 1926. It is suggestive that Alabama, a southern state, derived the lowest percentage of all taxes from property taxes in all three years. The states of the old South rely, for local as well as for state purposes, upon a wide variety of business and license taxes, to a greater extent than any other section of the country.

VII. CONCLUSION

In summarizing the preceding discussion the following conclusions, with respect chiefly to conditions of the year 1927, are warranted:

1. Property taxation in the United States is now and has practically always been confined to the states and local divisions.

2. The total tax revenue for state and local purposes is placed at $5,723,000,000, of which $4,531,000,000 or a little less than 80 per cent was derived from property taxes.[1] If special assessments, based upon census data, were included in the totals for 1927, as for the earlier years, the percentage would be somewhat lower.

3. For all the local units, excluding the states, there appears to be no appreciable change in the reliance upon property taxes, when the change is measured by the percentage of all taxes derived from property taxes. The National Industrial Conference Board found, as shown in Table 13, that all taxes for local purposes amounted to $4,367,000,000 in 1927; of this sum $4,061,000,000, or nearly 93 per cent, were property taxes. The percentage would be lower were special assessments included.

4. Of the taxes collected for state purposes, amounting in 1927 to $1,355,127,000, according to the National Industrial Conference Board,[2] $470,237,000 or 34.70 per cent, consisted of property taxes. If special

[1] Cf. Table 1, *supra*.

[2] National Industrial Conference Board, *Cost of Government in the United States, 1927–1928*, pp. 94–95, Table 42.

assessments were included with total taxes and if $99,801,766 of special property taxes were eliminated, as has been done in Table 3, the total taxes and special assessments would be $1,382,000,000 with general property taxes only $307,434,735, or 26.8 per cent. On the latter basis, the reliance of the states, as such, upon property taxes declined from 51.0 per cent in 1902 to 26.8 per cent in 1927. Income taxes, gasoline taxes, motor vehicle license taxes, inheritance taxes, and severance taxes are chiefly responsible for this decline.

5. Turning to the counties we face a regrettable lack of current data. According to the census data in Table 5, the county revenues from taxes and special assessments rose from $160,000,000 in 1902 to $745,-000,000 in 1922, while the revenues from general property taxes rose from $143,000,000 to $687,000,000 in the same period, leaving the percentage from property taxes somewhat in excess of 90 per cent in all the years. If special assessments are excluded, the percentage derived from property taxes during these years will be near 95 per cent. Whether county property taxes have increased or decreased relatively, since 1922, is probably a matter of bookkeeping. If a large part of the revenue from motor fuel taxes and vehicle license taxes is credited to the counties, the percentage derived from general property taxes will be found to have decreased. Otherwise it will probably have increased. The increase, if any, cannot have been great, since the counties have always almost uniformly derived nearly all their revenue from taxes on property.

6. The cities, especially the larger cities, have in the past few decades become the greatest spenders of public funds in normal times of all governmental units; and they rely, to the extent of more than 80 per cent of all taxes and special assessments, upon general property taxes.

7. There remains for consideration a list of school districts and other miscellaneous units. How much they spend and how rapidly their expenditures are increasing is not accurately ascertainable. According to the census data in Table 11, they collected in taxes and special assessments in 1922, $980,000,000, of which $941,000,000, or about 96 per cent, consisted of property taxes. These figures are too low, however, because of the failure to include all tax-levying units.

8. The importance of the property taxes of the diverse taxing units

may be shown in terms of the respective shares of the national income which these taxes absorb. Table 15, based upon the computations of the National Industrial Conference Board, shows the taxes collected on property and from other sources of the principal groups of taxing units,

TABLE 15

TAXES COLLECTED BY ALL GOVERNMENTAL UNITS, UPON PROPERTY AND NOT UPON PROPERTY, AND PERCENTAGES THESE WERE OF NATIONAL INCOME, 1927*

Taxing Units and Bases of Taxes	Taxes Collected		Percentage of Tax Revenue of Each Class of Government Taken from Each Source Specified
	Amounts	Percentage of National Income	
Federal:			
Upon property	None	None	None
Not upon property	$3,337,000,000	4.28	100.0
State:			
Upon property	470,237,000	0.62	34.7
Not upon property	884,890,000	1.14	65.3
Local:			
Upon property	4,060,866,000	5.20	92.8
Not upon property	306,597,000	0.39	7.2
State and local:			
Upon property	4,531,103,000	5.82	79.2
Not upon property	1,191,487,000	1.53	18.8
All:			
Upon property	4,531,103,000	5.82	50.0
Not upon property	4,528,487,000	5.81	50.0

* Based upon data of National Industrial Conference Board, *Cost of Government in the United States, 1927–1928*, pp. 64–69. National income taken as $77,931,000,000 for 1927 (*ibid.*, p. 69).

the percentage from each source for such groups of units, and the percentage of the national income taken by the taxes from each source. Property taxes, as here used, include special property taxes, but special assessments are not regarded as taxes at all. Such is the practice of the Board, as followed in Tables 13 and 14.

In the following chapters, the general property tax will be discussed as to its suitability and propriety as a fiscal device to yield 50 per cent of the total tax revenue for all units of government; 34.7 per cent of all

state revenue, and 92.8 per cent of all local tax revenue, or 79.2 per cent of all state and local tax revenue, as it now does. The prevailing belief is that as the nation develops economically it tends to become improper or at least inexpedient to continue direct taxes on property to the same relative extent that might have been justifiable in the days of a simpler economic organization. As the data have shown, there is in the United States no tendencv to follow this belief.

CHAPTER II

DEVELOPMENT OF TAXATION OF GENERAL PROPERTY

It is common to accept any current social practice as stable and permanent. The popular attitude toward property taxes is no exception. The so-called uniformity and universality rule, which requires, in substance, *all* property to be taxed at a uniform *valuation* and a *uniform* rate, is thus often assumed to be the only natural or rational basis for the apportionment of the tax burden, and is expected to continue so indefinitely. American taxpayers have until the present decade been quite unaware of any different practices in other countries or in the United States and have been skeptical as to the applicaton of these practices. The post-war deflation of real estate values, the mounting taxes of the past decade, and the progressive concentration of property assessments on real property have produced a feeling on the part of many real estate taxpayers that a shift is necessary. There is no warrant in history for this persistent assumption of unchangeableness of property taxation.

I. EUROPEAN INFLUENCE

It is not necessary to analyze in detail the European influence upon property taxation in the United States. Not every tax practice of Continental Europe was adopted here; few that were adopted have endured to this day. Such influence as there has been has come indirectly through the tax system of England. The American general property tax, in fact, is to a large extent, indigenous.

A very interesting and generally overlooked fiscal device, in use in the American colonies until it was abolished at the time of the Revolution, was the quasi-feudal quitrent.[1] Englishmen of the colonial period were still under the influence of the feudal doctrine that the actual users of land held their land under a seigneur, in this case the

[1] The principal treatise on this subject is B. W. Bond, *The Quit-Rent System in the American Colonies.*

Crown, on various terms, ranging from complete servitude to liberal socage. It was implicit in all land grants, to proprietary lords as well as to quasi-public corporations, that an annual sum, usually ranging from one shilling per hundred acres to one penny per acre, was payable to the Crown or the vassal of the Crown, as revenue or at least as token of inferior tenure of the land. Though this sum, which made the user quit of the claims of the seigneur, hence the name "quitrent," was seldom paid in New England, and was generally evaded in all the colonies; yet, in some, notably Maryland, under the Calverts, and Virginia, it was of fiscal importance.

The rent was administered by the British treasury. An auditor-general subject to treasury control was in supervising control, having generally a deputy in each colony. The actual collection was in charge of a receiver-general and deputies, who, like the auditor-general, were often paid on a commission basis from the quitrent revenue. Just before the Revolution the annual rent roll was estimated[1] at £37,500. But the extent to which the payment was evaded is indicated by the fact that the annual collections were only £19,000, most of which was collected in Maryland and Virginia. In Maryland in 1767 the annual net value was £8,383;[2] and in Virginia in 1771, £3,885.[3] An indication of the extent to which the payment was evaded in New York is found in the fact that in 1767 the annual rent roll was £1,806, but that in that year payments were in arrears to the amount of £18,888. The proceeds were, after deduction of fixed charges for costs of collection, and, by royal sanction, of certain items for designated purposes, at the disposal of the Crown. Except in Virginia, where large amounts were remitted to the treasury, the proceeds were usually spent in the colony for purposes designated by the Crown. The proceeds of the quitrent were funds that could be spent by the Crown for purposes for which the legislatures refused to appropriate money, usually salaries of certain officials whose duties were not regarded favorably by the legislatures. In Virginia, for example, a balance of £1,983 was granted to found the College of William and Mary, and specified sums were awarded to the Virginia clergy. The colonists opposed the quitrent on the ground, among others, of the hardships of acquiring and improving the land, and refused to sanction the royal right in the land; and they specifically

[1] *Ibid.*, p. 444. [2] *Ibid.*, p. 446. [3] *Ibid.*, p. 248.

insisted that the money should be spent at home to relieve other taxpayers.

In principle, the practice of appropriating a part of the value of natural resources to meet the cost of public services is sound. And it would have been particularly auspicious to make the beginning at the time of the grants, when no one had acquired equities in the land. But it did not conform to the ideas of the grantees and settlers, who desired to appropriate the land values. The system had the further misfortune of being imposed by an outside power. In fact, it delayed the imposition of property taxes. There is an inverse correlation between the use of property taxes and the use of quitrents. It was in New England, where quitrents were practically nonexistent, that property taxes developed first, while in the southern colonies the arrangement was the reverse.[1] Where, and in so far as, taxes on property developed, they were naturally patterned in part upon the contemporary system of property taxation in England.

The current English system of property taxation does not attempt to reach all property uniformly, the local rates being based upon rental value of real property, and personal property not being subject to the rates at all. At the time, however, when the American colonies were adopting English institutions, the property tax liability was not confined to real property. It was not even confined to property as distinct from the person of the taxpayer. Professor Cannan lucidly pictures the transition, in England, of the tax base from persons to things:

> It is never things, but always persons, that pay taxes and rates, and in the fourteenth or even the sixteenth century the metaphor which attributes payment to the thing in respect to which the person is taxed had not taken possession of the ordinary mind as it has now. In the simplest form of rating there is nothing in the nature of an assessment or valuation list made up by a modern assessment committee. The total sum to be raised is apportioned directly upon the contributors as the assessors think fit or the common agreement decides. It seems quite clear that in the fourteenth and fifteenth century the accepted view was that each inhabitant should pay according to

[1] An interesting sidelight on the primitive ideas of property taxation of colonial Virginia may be seen from a proposal by Governor Dinwiddie to raise £60,000 for defense of the colonies by a tax similar to the Virginia quitrent of two shillings per 100 acres of land, in all the colonies (Governor Dinwiddie to Board of Trade, February, 1756, *Dinwiddie Papers*, II, 340–42. Quoted by Bond, *op. cit.*, p. 445).

his ability or substance, for in those days ability and substance meant much the same thing: the man who has a large income without having a large capital is a product of modern civilization. Something in the nature of a valuation list soon sprang up, not because there was as yet any idea that the things of which a man's substance consists ought to be rated, but because the assessors wanted some kind of guide as to the relative ability or substance of the rate payers. In a purely agricultural community, where every person of ability to pay is a farmer, nothing can be more natural than that the assessors, in forming their estimate of relative ability, should consider the number and quality of the acres cultivated by each and perhaps also the number of sheep and cattle pastured. In a town an equally obvious guide as to the substance of the inhabitants is afforded by the size or value of the houses occupied. When this has once become the settled custom, it is supposed by a natural confusion of mind that the acres and the houses are taxed, and any attempts to carry out the original principle of rating according to ability derived from every source are strenuously resisted by the parties interested.[1]

Accordingly, English tax laws came to specify, more or less confusingly, the extent to which the assessors were to use such external guides as to the taxpayers' substance and ability. Thus the act of 1601[2] required the overseers to raise the money required for the relief of the poor "by taxation of every inhabitant . . . . and of every occupier of lands, houses, tithes, impropriate or propriations of tithes, coal mines or salable underwoods." This act, which is still the parliamentary basis of the local rates, certainly does not require all property, personal as well as real, to be taxed; but neither does it forbid the use of the aggregate property of the inhabitants as a guide as to their ability to pay. The interpretation appears to have been that "The land within each parish is to be taxed . . . . equally and indifferently, but there may be an addition for the personal visible ability of the parishioners within that parish according to good discretion . . . ."[3] This passage suggests that each parish could please itself about taxing parishioners in respect to their movables.

[1] Cannan, *History of Local Rates in England* (2d ed.), pp. 22, 23. The student may find in the local taxes of Scotland a system of taxation, if it deserves the name of system, much more primitive, both in theory and administration, than were the contemporary colonial tax systems of British North America. Cf., e.g., S. F. Turner, *History of Local Taxation in Scotland* (1908).

[2] 43 Eliz., c. 2 (quoted here from Cannan, *op. cit.*, p. 76).

[3] Dalton, *Country Justice* (quoted here from Cannan, *op. cit.*, p. 82).

> To rate people in respect of goods held merely for personal use, such as household furniture, was never usual, though, like almost every conceivable thing in rating, it was occasionally done. . . . . Such articles would be regarded as a source of expense rather than of income, and as therefore making the owner less rather than more able to contribute. The cattle and other stock of the farmer were not taken into account in rating him, simply because his rent was supposed to furnish sufficient evidence of his ability to pay. . . . . While in most parishes no notice was taken of anything except lands, houses, tithes, coal-mines, and underwoods, in a few places a system of rating in respect of stock-in-trade existed from the earliest establishment of pound rates down to the present [nineteenth] century.[1]

Efforts were, of course, made, on the one hand, to have movables included for rating, and, on the other, to have stock-in-trade excluded. But neither in Parliament nor in the courts did either proposal have much success. In 1840, however, Parliament excluded stock-in-trade. In contrast, in 1874 another act made all woods and mines ratable; only "coal-mines and salable woods having been included in the Act of 1601. And so at last the poor-rate[2] came to apply to all immovable and to no movable property."[3]

It is to be noted that, in addition to the developing English local rates, the English settlers in North America were familiar with at least two other taxes on property, namely, the tax on movables and the land tax. Both were for the national treasury and both were decadent when the American colonists set about to develop their tax systems. Both had at that time a much longer history than the local rates.[4]

The "fifteenths and tenths," considered as one tax, dates back to the Saladin tithe of 1188, imposed in England by Henry II, in so far as any tax can be said to have a definite beginning. It was, as its name indicates, an extraordinary contribution imposed for purposes of the crusades. Like the income taxes of more modern times, it soon lost its emergency characteristics and became a regular annual tax. Movable property of the time was limited in amount and variety, so that the tax fell on cattle and crops outside of towns and on stock-in-trade and chattels within towns. The original Saladin tithe was levied at the

[1] Cannan, *op. cit.*, pp. 85, 87.

[2] Which is the name for practically all local taxes.

[3] Cannan, *op. cit.*, p. 101.

[4] Stephen Dowell, *History of Taxation and Taxes in England*, 4 vols.

rate of one-tenth of the value of all movables, including rents, except in case of those participating in the crusade, and with certain property of the knights and the clergy exempted. The early levies varied from a fortieth to a tenth. After 1334, the date of the "permanent settlement," they remained at one-fifteenth for the counties, and one-tenth for the towns and tenants of the demesne outside of towns. The permanent settlement of 1334 fixed the amount of one levy of the "fifteenths and tenths" at £39,000, and also fixed the apportionment of that sum among the various units contributing. The tax was no longer proportional to the value of movables of the different towns, for some towns decayed while others grew, but the quota of each remained unchanged. In later years when money was more plentiful, several "fifteenths and tenths" were levied at the same time, so that the £39,000 of the permanent settlement, or so much of it as was collected, did not necessarily represent a year's contribution. Thus, in 1601, eight "fifteenths and tenths" were granted at one time. This tax on movables, in the form of a fixed sum charged against each district, endured for nearly three hundred years, after which it disappeared or was merged with the land tax. "So loose was the practice in assessment for these taxes that a perusal of the various writs for the assessment and collection is like reading a programme for the course of a procession which went another way."[1]

The English land tax, as it was known to American colonists, began earlier and lasted longer than the tax on movables. Taxes upon land existed in early England in various forms, some even preceding the Norman conquest. Danegeld, originally an emergency contribution as a bribe to the vikings, became a regular levy, as a tax on each hide of land of 100 acres, but appears to have been levied for the last time in 1163. The carucage, a tax on each carucate, as much land as a "plough could plough in the year," developed, but seems to have disappeared after 1224. The scutage or shield money was a payment in commutation of the forty days of military duty which each knight owed the king for wars on the Continent, and was levied on the knight's fee, an area of land equal to twelve carucates. Supplementing the scutage, was the tallage which appears to have developed from the ancient ferm or rent on the king's demesne. All of these contributions, though conveniently called taxes, were feudal in nature, being paid in composition for serv-

[1] *Ibid.*, III, 76.

ices or rents, which were the original conditions upon which the tenants held land under the king.[1]

Exactly when these feudal exactions ceased is not known, but they were later merged with another fiscal device called the subsidy. A subsidy was a parliamentary grant to the king; it usually included the proceeds from several taxes, including the "fifteenths and tenths." It was customary to grant only one "subsidy" and two "fifteenths and tenths" at the time. Even before 1334 the tax on movables had ceased to be proportional to the movable property of the various towns and counties; and a supplementary or equalizing device was needed. The Tudor subsidy, affecting both movables and land, was *2s.8d.* in the pound for movables and *4s.* on the yearly value of profits from land. The highest recorded yield of a subsidy was £120,000, but usually it was much less. Until the time of the English civil war the subsidies were collected annually or semiannually. They were then changed into "monthly assessments" and the apparently inevitable tendency to apportion the total sum to be raised in quotas set in not only among the major divisions of England, Wales, Scotland and Ireland, but also among the towns and counties. The Taxing Act of 1656 exemplifies this practice. In 1692, however, Parliament, in the interest of a fair apportionment of the tax contributions, returned to a "pound rate." The tax was upon all real estate, offices, and personal property. But personal property gradually slipped from the list, although the tax on returns from offices lingered on till 1876. The "figment of a tax" on personal property was kept alive until 1833, when it was repealed. The national tax on land itself became in 1798 a redeemable rent charge; and the tax was, for the most part, purchased by the landowners, though in some parishes dwindling amounts still unredeemed continued to be collected.[2] Thus ended ingloriously the English attempt to tax general property for national purposes.

Three outstanding features of this mode of taxation are of interest, however, to the student of the general property tax. First, the tendency of Parliament to apportion the revenue to be raised in lump sums among the various divisions and subdivisions of the country. To a large extent, the provinces, counties, and towns, and to some extent the different classes of nobility, clergy, and merchants, to say nothing of

[1] *Ibid.*, III, 73, 74.

[2] *Ibid.*, especially III, 73–102.

the yeomanry, must have been the units for the treasury to deal with rather than the individual. With the development of democracy and constitutional government, the British government as well as the American states have come to deal more directly with the individual taxpayers. But it was the practice in the American colonies, especially in New England, to apportion the colonial revenue to the towns, leaving them to raise the required amounts as they saw fit.

Second, the inclusion of not only real property and movables but also of rents and returns from offices in the tax base. Here is at least a temporal antecedent of, if not an effective precedent for, the American colonial faculty tax. In the United Kingdom, and to a lesser extent in the United States, this element of taxable capacity, not closely related to the use of property, is reached through an income tax.

Third, the dwindling relative importance of personal property in the composite tax base. Thus, in the latter part of the eighteenth century the yield from personal property and offices was only £150,000, in a total revenue that must have been at least ten times as great.[1] If, during this period, when personal property was a relatively simple concept, with such administrative procedure as the English people would tolerate it was impossible to reach more than a small part of all movable property and returns from offices, there is at least a presumption that it will not be possible for the American states to tax adequately the vastly more varied conglomerate of personal property included in their concept of general property, through such assessment procedure as American property-owners will tolerate.

II. DEVELOPMENT IN AMERICA

Property taxation, as it now occurs in the United States, probably never existed in Europe, and certainly did not prevail in England when the colonial settlers transplanted her tax system to the new world. And in this country it has since undergone a long process of development. Historical research, still partial and incomplete, has established that property in the colonies was originally supplementary, as a tax base, to the poll and to an ill-defined income-earning capacity of certain persons, usually called "faculty," and that this composite tax was at first often less important fiscally than other taxes. Also, property taxes

[1] *Ibid.*, p. 101.

were frequently imposed only upon selected types of property, the list of which was gradually extended. Often these types of property were taxed according to more or less arbitrary schedules of statutory values, and with different rates applicable to various types of property.

A. THE COLONIAL PERIOD

The financial history of the thirteen original states has been written more or less adequately. The New England States have, on the whole, been much more carefully studied than the rest of the country. Excepting Virginia and North Carolina, only incomplete surveys of varying quality are available for other sections. It will be best briefly to consider first the colonies about whose taxation systems most is known.

1. *Massachusetts.*—In early colonial Massachusetts there was a strong "tendency to merely reproduce upon the new soil the institutions of the mother country . . . . ,"[1] a tendency to which there were probably fewer exceptions in Massachusetts than anywhere else. It is not clear what was the basis of the early contributions in Massachusetts, but, in 1634, the General Court provided that "in all rates and public charges the town shall have respect to levy every man according to his estate, and with consideration to all other his abilities whatsoever, and not according to the number of his persons."[2] An order of 1636 "explained" the above, saying that "all men" were "to be rated in all rates according to their whole ability wheresoever it lyes."[3] In 1646 this composite tax, hitherto irregular and occasional, was made annual. It was on a miscellaneous basis. The tax was twenty pence on all males over sixteen years of age; with additional amounts on artificers, laborers, and others, according to their earnings; plus one penny on the pound of property.[4] This basis, in substance, was continued by the province and by the state. The tax on property still applied only to such types as the legislature included in the list.

2. *New Hampshire.*—From 1641 to 1680 New Hampshire was united with Massachusetts, and had, therefore, the same system of taxation. There was the same triple index of ability to pay as the basis of the tax,

[1] C. H. J. Douglas, *Financial History of Massachusetts*, p. 16.

[2] *Ibid.*, p. 18. [3] *Ibid.*, p. 18.

[4] C. J. Bullock, *The Finances of Massachusetts*, p. 2.

namely, polls, selected types of property, and "faculty." It was the established practice to tax only such items of property as were designated in the tax laws at a statutory valuation for each parcel as specified in the successive revenue acts. The inventories, as provided in the acts of 1680 and 1742, are given in the table.

TAX SCHEDULES IN NEW HAMPSHIRE*

Object	Valuation 1680	Valuation 1742
A. Polls:		
Males over sixteen	18 pounds	18 pounds
B. Property:		
Land (within fence, meadows or marsh, mowable)	5 shillings per acre	10 shillings per acre
Oxen, four years old and over	3 pounds	3 pounds
Steers, cows, and heifers:		
Three years old	40 shillings	30–40 shillings
Two years old	25 shillings	20 shillings
Yearlings	10 shillings	10 shillings
Horses, three years and over	20 shillings	3 pounds
Swine, one year and over	10 shillings	10 shillings
Sheep, one year and over	5 shillings	exempt
Double houses (two stories)	not listed	40 shillings
Single houses (one story)	not listed	10 shillings

* M. H. Robinson, *A History of Taxation in New Hampshire*, pp. 24–34.

An omnibus clause provided for the taxation of other property not so immediately connected with land and with farming: "All ships, ketches, barques, boats and vessels whatsoever shall be ratable, as also all dwelling houses, wharfs, mills, and all handy craftsmen, as carpenters, masons, joiners, shoemakers, taylors, tanners, curriers, butchers, bakers or any other artificers, victuallers, merchants, and innkeepers shall be rated by estimation."[1]

Only the more common types of property were included in the list of taxables. Live stock less than one year old, farming implements, farm products, household furniture, books, plate, and jewelry, together with articles of personal wear, were not taxed. Lands not improved, or not fenced, or not plowable, mowable, or tillable were frequently omitted. Proprietors' rights often paid special taxes.

The items of property included were valued at uniform amounts determined in the acts themselves. These amounts were changed from

[1] Robinson, *A History of Taxation in New Hampshire*, p. 26.

time to time, as shown in the schedules above. Thus, in the 1680 inventory, lands were valued at five shillings per acre, but this figure was raised to ten shillings in 1742, and was fixed at still other amounts at other times. As time went on and new types of property became important, they were included, while other types were dropped. Thus sheep were excluded "for encouragement" in 1742.

This method of valuation is convenient, and, so long as most property remained alike, and with all units equally valuable, it worked quite satisfactorily. But there were, from the beginning, types of property that could not readily be valued in this manner. Various attempts were made from time to time to retain or contrive some statutory index of the taxable value of property. For example, houses, warehouses, and other buildings were at one time to be rated "so as they are not estimated at more than one-twelfth part of their net yearly income."[1]

There was a great deal of local variation, either sanctioned by special acts or without any legal sanction, often in violation of law. Except during the first year or two, the provincial tax on the inventory[2] was not levied in the form of a rate of so much per pound of the list, but in a lump sum on each town, which sum was then added to and raised in the same way as the amount locally required. Therefore, so long as the required amount from the town treasurer was properly certified to the provincial treasurer, the provincial authorities cared little to dictate a procedure to town officials for raising local as well as state taxes.

In 1728, meadow and marsh land was valued at six shillings per acre throughout the province, except at Kingston and Londonderry, where the figure was five shillings. In the same year the "trades" of Portsmouth were to be set in the list at £1000; Dover, at £200; Exeter, at £22; Hampton Falls, £50; Kingston, £20; and Derry, £5.[3] As nearly as could be determined by the legislatures, these figures corresponded to the opportunities for gain from trades in the respective towns.

In time, certain changes developed. Poll taxes became less and less important. The so-called faculty basis was also abandoned in this state as in the others. In 1789, the notion of income as an underlying basis was definitely abandoned, and the taxation of "every person according

[1] Robinson, *op. cit.*, p. 40.

[2] Which was the current equivalent of the modern "assessed valuation."

[3] Robinson, *op. cit.*, p. 33.

to his estate" was substituted. Finally, in 1833, the legislature permanently abandoned the practice of prescribing statuory values for any class of property. Henceforth all property was to be valued according to its true value in money.[1]

3. *Connecticut.*—The Connecticut system of taxation resembled that of Massachusetts and those of the other New England colonies. Apparently the first colonial tax in Connecticut was imposed in 1637; it consisted of an amount of £620, principally levied at the rate of 25*s.* on each £100 of investments in the Joint-stock Association of Adventurers,[2] there being then little or no other property that might be used as the basis of taxation. In 1639, however, the lands of the colony were divided, and became private property so far as to be usable as a basis for taxes.

Prior to 1650 the general practice was extremely simple. "Whenever the General Court agreed upon a sum to be levied upon the towns for the management of the affairs of the colony, a committee was appointed, composed of an equal number from each town, who determined what proportion of the assessment each should pay."[3] But such a direct process of apportionment soon became inadequate, for there appears to have been no definite basis upon which the quota of each town should be apportioned among the individuals therein, except that lands seem even then to have been classified and made taxable roughly according to their probable income-producing capacity. Consequently, about 1650, following a careful study of the Massachusetts system, the "grand list"[4] superseded the older practice.

The list of taxable estates included various classes of property, but only certain types specified in the statute were taxed. It was the original practice, where possible, to value each item or class specifically in the law. Lands, independently of the improvements on them, were at an early date quite elaborately classified, apparently more so than was the case in Vermont and New Hampshire, owing doubtless to the

[1] *Ibid.*, p. 86.

[2] F. R. Jones, *History of Taxation in Connecticut*, pp. 12–14.

[3] *Ibid.*, p. 28. For example, one tax of £100 was apportioned as follows: Hartford, £43; Windsor, £28 6*s.* 8*d.*; Weathersfield, £28 13*s.* 4*d.*

[4] Which was the then current Connecticut, and still is the Vermont, equivalent of what is generally designated as the tax roll.

earlier industrial development, and the consequent wider spread in their values. More elaborately and definitely than elsewhere was probable income from land made the basis of tax liability. "Lands, as distinguished from buildings, were put in the list at a fixed rate for each kind prescribed by statute; not because those sums were deemed to be the value of the lands, but because they were thought to represent the average income they would produce."[1]

Another variable feature in the personal parts of the grand list referring to persons resulted from the classification of trades, professions, and occupations, which were listed and subject to the tax on "faculty" or presumptive income.

> The Connecticut Code of Laws made provision for that class of laborers who, by the advantage of their trades, were better able to contribute to the expenses of the government than common laborers. They were rated according to their gains just as other men were for the probable income of their estates. . . . . The compass of the tax gradually grew larger. . . . . In 1737 attorneys-at-law were listed for their faculty—the least practitioners at £50 and others in proportion to their practice.[2]

The amounts at which each class was to be rated came to be specified in much detail in the law.

4. *Vermont.*—For only one other of the original New England colonies, namely, Vermont, is information about its early tax system conveniently available. Revenue to meet the limited public expenditures of the colonial days, which for Vermont were the period of settlement and of the frontier, were raised chiefly on the basis of proprietors' rights to land. The colonial and county quotas were apportioned in specific amounts among the towns, and each town was practically free to levy its amount, together with its own requirements, according to its preference. There was no ironclad tax rule in the basic law. The constitution of 1777,[3] like the Pennsylvania constitution of 1776,[4] provided that "every member of society has a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute his proportion towards the expense of that protection . . . ."

[1] *Report of Special Tax Commission of Connecticut, 1887*, pp. 9–10 (quoted here from Jones, *op. cit.*, p. 16).

[2] Jones, *op. cit.*, pp. 25–26.

[3] Art. ix. [4] Art. viii.

Even this extremely general provision disappeared nine years later in the constitution of 1786, and no such rigid constitutional requirement governing taxation has since appeared in Vermont. Independently of any constitutional requirement, a system of property taxation developed from statutory enactments.

5. *Virginia and the South.*—Virginia, though among the first colonies settled in the South, was much slower than Massachusetts to develop property taxation. The earliest contributions were on a poll tax basis, and were paid in tobacco. Landowners controlled the assembly so that land was not taxed until 1645, and then only for three or four years, as a war measure. The germ of property taxation appeared earlier, in 1631, when, in the absence of the payment of the poll tax, the estates of those who had left the community or had died were made to contribute. Later it was argued that the assessments should be in some measure according to men's abilities and estates "augmented onto the wealthier sort by the number of milk kind, and by . . . . relief to the poorer sort."[1] Cattle and slaves rather than land constituted the most important class of taxable property. In 1645 an act recited that "whereas the ancient and usual taxing of people of this colony by the pole equally, hath been found inconvenient, and is become unsupportable for the poorer sorte to beare, that (hereafter) all publique levies and county levies be raised by equall proportions out of the visible estates in the colony. The conformity of the proportions to be as followeth, vizt:"[2]

TAX SCHEDULE OF VIRGINIA, 1645

100 acres of land at	4 lbs. tobacco
1 cow, three years old	4 lbs. tobacco
Horses, mares, geldings, each	32 lbs. tobacco
A breeding sheep	4 lbs. tobacco
A breeding goat	2 lbs. tobacco
A tithable person	20 lbs. tobacco

This special property tax, a war measure, was a concession to the poorer classes, wrung from the reluctant landholders. It was abolished in 1648. Thereafter, until 1755, when the French and Indian wars com-

[1] W. Z. Ripley, *The Financial History of Virginia*, pp. 21–22.

[2] *Ibid.*, p. 25.

pelled extraordinary measures, the poll tax was almost the sole source of the colonial revenue. This tax was not favored by any class. The landowners wanted customs and excises while the trading classes and small landowners wanted a tax on land. In the resulting deadlock the poll tax continued. In 1755 a land tax of 1*s*.3*d*. on each 100 acres, to last for three years, was imposed after all other expedients of loans, lotteries, and customs had failed. It rose to 3*s*. in 1757, fell again to 1*s*.3*d*. in 1762, and was repealed in 1768 as soon as the emergency had passed. The emergency of the Revolutionary War necessitated property taxation in Virginia. But it developed much more slowly there than in New England, and it was not until 1850 that universal and uniform taxes on property were required by the constitution of that state.

In North Carolina, except for a tax on land at the rate of 2.5*s*. per 100 acres from 1715 to 1720, and at one-half of that rate for two years afterwards, there was no property tax for either colonial or local purposes.[1] Poll taxes were levied after 1715 for colonial purposes at rates varying from 3*s*. in 1740 to 16*s*.6*d*. in 1760. They were levied on all white males over eighteen years of age and on all slaves over sixteen. In a sense the poll tax was a property tax on the plantation slave owners; but it was not as heavy as a tax on land would have been. As the settlements of whites, other than the gentry, increased, the poll tax became intolerable to the small white landowners of the west. The poll tax was also used almost exclusively for local town, county, and parish purposes, being collected by the sheriff on a commission basis. Until the Mecklenburg Independence declaration the church was tax-supported as was the town.

The first revenue to be used was the quitrent. Though it was a revenue belonging to the Crown, there is no record of any rent money collected in North Carolina being spent outside of the colony. As early as 1735 the collections from this source were reported at £1,182.[2] While the collections varied widely from year to year, and the evasion was conspicuous,[3] this tax was yet fiscally important in the early years.

[1] Coralie Parker, *The History of Taxation in North Carolina during the Colonial Period*, pp. 97–124.

[2] Bond, *op. cit.*, pp. 300 ff.

[3] In 1774 the rent roll was between £7,000 and £8,000 but the collection only £1,417 (*ibid.*, p. 300).

There were also export duties on tobacco and hides,[1] import duties on liquors and rice,[2] a tax on law suits, and a fairly productive list of license taxes or fees.[3] It was not until the Revolutionary War required expenditures too heavy to be met from the miscellaneous taxes mentioned above that general property was made taxable.

In the other southern colonies the growth of property taxation was even slower. Maryland imposed a temporary land tax in 1756. Poll taxes were so heavily used that they became obnoxious to the extent that the following provision was inserted into the Declaration of Rights: "The levying of taxes by poll is grievous and oppressive and ought to be abolished."[4] After the inauguration of the state government in 1777 a property tax was imposed, which, although it soon became the mainstay of local taxation, was irregularly used by the state. In the first constitution of this state there appears for the first time the clause requiring universal and uniform property taxation: " . . . . but every person in the State ought to contribute his proportion of public taxes, ... according to his actual worth in real or personal property within the State."[5]

6. *The middle colonies.*—In the middle colonies property taxation appeared earlier than in the South but later than in New England. The Dutch settlers of New Amsterdam were, at first, chiefly traders; for them excises are generally better adapted. In 1654, it was proposed to impose percentage taxes on real estate and milch cows or draft oxen, but this aroused "great indignation" and was apparently unsuccessful.[6] Four years later, however, there was imposed a tax of 6⅔ per cent (the fifteenth penny) on vacant lots until built upon.

There developed, however, in Long Island, where the English influence dominated, a system of local property taxation. When the English obtained possession of this territory in 1664 there was no attempt to coerce the local taxing bodies. Consequently property taxation developed slowly. In 1674, a tax was levied on the estates of the wealthiest and most affluent citizens, 1,000 guilders ($400) being

[1] Parker, *op. cit.*, pp. 72 ff.

[2] *Ibid.*, pp. 86 ff.

[3] *Ibid.*, pp. 127 ff.

[4] Art. xiii.

[5] *Ibid.*, amended to permit classification in 1914.

[6] J. C. Schwab, *History of the New York Property Tax*, "Publications American Economic Association," V, No. 5, 23, 24.

exempted. Arbitrarily levied and poorly administered, it had a good deal of the voluntary character present in the earlier property taxes. This is even better shown by a "loan"[1] of the same year, which was not intended to be repaid. Property taxation in New York may be said to have begun in 1683, when the assembly provided for its administration.

In Pennsylvania, Delaware, and New Jersey the development was also slow. The description by Oliver Wolcott of the direct taxes of the states will, with variations in degree, fit the system of most of the states:

> No objects of taxation are defined or prescribed. . . . . Legislatures determine the quotas of the towns, which last are appointed to individuals by assessors; no provision has been made for a disclosure of the property owned by individuals; of course, all assessments by the legislatures, by the supervisors and assessors are determined by a discretionary estimate of the collections and relative wealth of corporations and individuals.[2]

In this inchoate condition was the institution of property taxation when the Revolutionary War began. It could not have borne a very close resemblance to the general property tax as it existed about half a century later.

B. CONSTITUTIONAL UNIFORMITY REQUIREMENTS SINCE THE REVOLUTION

The monopolization of customs duties by the federal government forced the states in the direction of property taxation. Increasing public expenditures, more than any other factor, led to an expanding tax base, shortly to include all property. The constitutional provisions requiring uniformity and universality are mandatory. Power to tax all property uniformly, in the absence of constitutional prohibition, rests in the legislature. Statutory universality and uniformity did, in fact, generally precede the constitutional provisions. Sometimes, as in Illinois, statutory establishment of the general property tax did not occur until many years after the adoption of the constitutional uniformity requirement. The Illinois constitution of 1818 contains the uniformity rule substantially as it is today. The general property tax was not established in Illinois by statute until the law of 1839 swept away the old statutory classifications.[3] But the statutory legislation dealing with the uniformity rule of property taxation is too long and

[1] *Ibid.*, pp. 39, 40. [2] *Report on Direct Taxes, 1796.*

[3] Cf. R. M. Haig, *History of the General Property Tax in Illinois*, pp. 38, 78.

involved to be given here. Besides, far greater current interest attaches to the constitutional provisions. The movement has now, since about 1860, swung in the other direction—away from universality and uniformity; and this movement is distinctly hampered by the rigid provisions of the fundamental law.

There were, strictly speaking, no constitutions prior to 1776.

> Colonial charters were usually brief, and little space was given to the subject of taxation. The charters were not drawn up by the delegates of the people to serve as restrictions on their representatives; they were grants of power by those in authority in England to the people of the provinces. The provisions governing taxation, when they were included in the charters, usually aimed to obtain equality and equal distribution of the tax burden between the different towns and assessment districts, and forbade the raising of any revenue unless the tax were levied according to law.[1]

There were, of course, numerous statutes designed to effect justice among individual tax-payers, but they did not assume the form of rules requiring universal and uniform property taxation.

1. *Before 1800.*[2]—The transition from the colonial status to statehood caused only negligible changes in the direction of constitutional provisions for universal and uniform property taxation. Ten states[3] adopted new or amended old constitutions, some of them three times, with no reference to property taxation. The constitution of Vermont, adopted in 1777, required every person to bear "his proportion toward the expense" of the protection given by the state. Pennsylvania also adopted this provision; but both states soon abandoned it.[4] Massachusetts, in 1780, and New Hampshire, in 1792, similarly required each person to contribute "his share"; and in both of these states this pro-

[1] R. A. Campbell, History of Constitutional Provisions, *Proceedings of the National Tax Association, 1908*, p. 562. Hereafter referred to as "*Proceedings.*"

[2] The source used in the following treatment of the constitutional changes affecting taxation is Francis N. Thorpe, *Federal and State Constitutions, Charters and Other Organic Laws, 1492–1908.*

[3] Delaware, 1776 and 1792; Georgia, 1777, 1789, and 1798; Kentucky, 1799; New Hampshire, 1776 and 1784; New Jersey, 1776; New York, 1777; North Carolina, 1776; Pennsylvania, 1790 (constitution of 1778 referred to above); South Carolina, 1776, 1778, and 1790; Vermont, 1786 and 1793 (constitution of 1777 referred to above).

[4] Vermont in 1786, Pennsylvania in 1790.

vision is law to this day. In neither case does the constitution specify how the share of each person shall be determined.

In one case only, that of the Tennessee constitution of 1796, is there even an apparent requirement of universality and of uniformity. "All lands liable to taxation . . . . shall be taxed equal and uniform, in such manner that no one hundred acres shall be taxed higher than another except town lots which shall not be taxed higher than 200 acres of land each."[1] This provision seems clearly to require uniformity with respect to the area rather than the value, a species of uniformity that would be ridiculous in property taxation today. "The main idea running through the constitutions of this period (1776–96) seems to be that taxes should not be laid or levied without the consent of the people or their representatives in the legislature."[2]

2. *From 1800 to 1820*.—During the first twenty years of the nineteenth century the movement for constitutional universality and uniformity requirements gathered but little momentum. Five new constitutions were adopted;[3] none had such a provision. Four others made more or less specific requirements, as follows: Alabama (1819) simplified and improved the Tennessee provision of 1796, namely, so that "all lands liable to taxation in this state, shall be taxed in proportion to their value."[4] In the same year this was also substantially provided in Maine but extended to cover personalty[5] as well. Briefer, but equally specific and more comprehensive, was the Missouri constitution of 1820 which required "all property subject to taxation to be taxed in proportion to its value."[6] The Illinois constitution of 1818 shows evidence of considerable ingenuity in its phraseology. "The mode of levying a tax shall be by valuation so that every person shall pay a tax in proportion to the value of the property he or she has in his or her possession."[7]

[1] Sec. 26. [2] Campbell, *op. cit.*, p. 564.

[3] Ohio, 1802; Louisiana, 1812; Indiana, 1816; Mississippi, 1817; Connecticut, 1818.

[4] Sec. 8.

[5] "All taxes upon real and personal estate, assessed by authority of this state, shall be apportioned and assessed equally, according to the just value thereof" (Art. vi, sec. 7). The word "apportioned" refers to the apportionment of the state tax in a lump sum in quotas among the towns.

[6] Sec. 19. [7] Sec. 20.

The requirements of universality and uniformity are clear and unescapable.

3. *From 1820 to 1840.*—There was even less of constitutional modification, with respect to taxation, during the following twenty years. Eight states adopted constitutions, as follows: Virginia (1830) and Michigan (1835) set up no requirements respecting taxation in their first constitutions. Two others, Delaware (1831) and Mississippi (1832), approved their second constitutions with no requirement relating specifically to taxation. The same is true of the third constitution of Pennsylvania (1838). The new Florida (1838) constitution contained a broad provision to the effect that "the general assembly shall devise and adopt a system of revenue, having regard to an equal and uniform mode of taxation, to be general throughout the state."[1] Tennessee, in her second constitution, modified and expanded her tax provisions to the effect that "all lands liable to taxation . . . . town-lots, bank-stock, slaves, ... and such other property as the legislature may . . . . deem expedient, shall be taxable. All property shall be taxed according to its value; . . . . . No one species of property, from which a tax may be collected shall be taxed higher than any other species of property of equal value."[2] In spite of this awkward and tautological phraseology, uniformity might be, but universality was clearly not, required; for it was not mandatory upon the legislature to declare all property taxable. The Arkansas constitution of 1836[3] was evidently patterned upon the second Tennessee constitution, but was somewhat briefer and clearer.

4. *From 1840* to *1860.*—From 1841 to 1860 there was lively action in the making of state constitutions, twenty constitutions being adopted by eighteen states.[4] The tendency toward universality and uniformity was also stronger than formerly. Three states[5] accepted their second

[1] Art. viii, sec. 1. [2] Sec. 28.

[3] Sec. 2, "All property subject to taxation, shall be taxed according to its value . . . . that value to be ascertained in such manner as the general assembly shall direct; making the same equal and uniform throughout the State. No one species of property, from which a tax may be collected, shall be taxed higher than another species of equal value."

[4] Not counting the three documents of Kansas of 1855, 1857, and 1858 that failed to become law.

[5] New Jersey, 1844; New York, 1846; and Kentucky, 1850.

constitution without either requirement. Iowa (1846 and 1857) adopted two constitutions, neither containing any reference to taxation. Three others, Illinois (1848), Indiana (1851), and Maryland (1851), made no changes in the provision concerning property taxation.

Eight states previously without the uniformity rule enacted that provision; in 1845 Louisiana (second constitution) provided "that taxation shall be equal and uniform throughout this state. All property on which taxes may be levied in this state shall be taxed in proportion to its value."[1] Later in the same year, Texas included this provision in her first constitution. Louisiana also adopted the additional provision, following the 1834 Tennessee constitution, that no one species of property shall be taxed higher than any other. With minor variations in phraseology, California (1849), Virginia (1850),[2] Oregon (1851), and Kansas (1859) incorporated the same provision requiring uniformity. Ohio (1851) required the passage of laws taxing by a uniform rule "all real and personal property, according to its true value in money."[3] The first constitution of Minnesota (1857) required that "all taxes to be raised in this state shall be as nearly equal as may be, and all property on which taxes are to be levied shall have a cash valuation and be equalized and uniform throughout the state."[4]

Five other states did not clearly establish the uniformity rule. Rhode Island (1842) established the rule that "the general assembly shall from time to time provide for making new valuations of property for the assessment of taxes in such manner as they may deem best."[5] Wisconsin (1848) in her first constitution, which is still effective, provided that "the rule of taxation shall be uniform and taxes shall be levied upon such property as the legislature shall prescribe."[6] Here universality is not required, but uniformity appears to be, on such property as is selected for taxation. The second Michigan constitution (1850), still in force, requires the legislature to "provide a uniform rule of taxation, except on property paying specific taxes, and taxes shall be levied on such property as shall be prescribed by law."[7]

5. *From 1860 to 1880.*—Even more vigorous and kaleidoscopic was the activity in changing governments and constitutions during the

[1] Art. cxxvii. This was repeated in the constitution of 1852.

[2] Not including slaves.

[3] Art. xii, sec. 1.

[4] Sec. 1.

[5] Art. iv, sec. 15.

[6] Sec. 1.

[7] Sec. 2.

period from 1860 to 1880. At least twenty-one states changed their fundamental law, some as often as three times, there being at least forty-one major changes in all. But the changes of this period are for the present purpose less significant than those of the previous periods. They were chiefly in the southern states and were caused by political upheavals of the Civil War and reconstruction period. Already having the universality and uniformity rules, each state successively adopted new constitutions; but in no case did any significant change take place in the content of the tax rule. West Virginia (1863) included in her first constitution the two familiar provisions requiring uniformity, one positive, to the effect that taxation "shall be equal and uniform," the other negative, forbidding taxation of one species of property at a rate higher than that on another species of equal value, and made no change in the second constitution (1872). Virginia (1864) made no change in her second constitution, and, in the third (1870), added the negative clause, as if to make trebly sure of the uniformity rule. Maryland (1864 and 1867) first abolished, then reinstated, its general and original uniformity rule. Tennessee (1870) retained her complex rule, and Illinois in the same year expanded her rule to include corporations.

The new state of Nevada swung into line (1864), requiring the legislature to "provide by law for a uniform and equal rate of assessment and taxation—excepting mines and mining claims, the proceeds of which alone shall be taxed."[1] The first constitution of Nebraska (1867) did not contain a uniformity clause, but the second (1875) adopted the Illinois rule almost verbatim. In the third constitutions of Mississippi (1868) and New Jersey (1875) the rule appears for the first time. In Georgia, the fourth constitution (1868) did not, but the fifth (1877) did, require uniformity. North Carolina introduced the uniformity rule in her second constitution (1868) and retained it unaltered in the third (1876). The same applies to the fourth (1865) and the fifth (1868) constitutions of South Carolina.

Four states deserve special mention because their action indicates a reversal of the hitherto unbroken tendency toward uniformity. The Pennsylvania document of 1873 offers the clearest case. Article VIII, section 1 reads: "All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax."

[1] Art. ix, sec. 2.

This is the earliest instance[1] of specific constitutional permission to classify property, and to tax each class differently. Colorado, in her first constitution, adopted a similar provision in 1876.[2] The same provision occurs also in the third constitution of Missouri, but is negatived by the following section,[3] requiring that "all property subject to taxation shall be taxed in proportion to its value." These contradictory provisions have been judicially interpreted to mean that the legislature may classify property for taxation according to section 2, but that section 3 requires all property to be put into one class. In these three states the rule of classification, such as it is, is still law. In California (1879) the general uniformity rule disappeared, only to reappear in 1900.

6. *From 1880 to 1900.*—The last twenty years of the century show few changes in constitutions except among new states. Of the thirteen states adopting new constitutions, seven[4] were newly admitted. Six new states adopted the uniformity rule,[5] and only one, Idaho, provided uncertainly for classification. The latter state[6] adopted the Illinois uniformity rule, "Except as in this article hereinafter otherwise provided," and then added the Pennsylvania classification clause. Kentucky (1890) also adopted the Pennsylvania classification clause[7] but, like Missouri, partly negatived it by requiring all property to be "assessed . . . . at its fair cash value." Florida (1885) and Louisiana

[1] Except the Nevada provision of 1864 requiring the proceeds of mines alone to be taxed.

[2] Art. x, sec. 3. The Colorado provision is construed, however, as not permitting classification.

[3] Art. x, secs. 3 and 4.

[4] Idaho, 1889; Montana, 1889; North Dakota, 1889; South Dakota, 1889; Washington, 1889; Wyoming, 1890; and Utah, 1895. Utah permitted classification in 1930.

[5] The provision in Wyoming, "All taxation shall be equal and uniform" (sec. 29), is quite general. That state also subjected the gross proceeds of mines to a tax in lieu of the property taxes. The Montana constitution, which requires the legislative assembly to "levy a uniform rate of assessment and taxation" and to "prescribe such regulations as shall secure a just valuation for taxation of all property. . . . " has however been construed judicially to permit an elaborate system of classification which has been in force since 1919.

[6] Art. vii, secs. 2 and 5.

[7] Secs. 171 and 172.

(1898) retained the uniformity rule. In Delaware (1897) it appeared for the first time, and in California it reappeared in 1900. In New York (1894) the third constitution was enacted, as were its predecessors, without any specific requirements relating to taxation.

7. *Since 1900.*—The period since 1900 has shown relatively few changes. The movement for classification of property for taxation has been the most conspicuous feature, the question having been agitated in certain states almost continually. Two new states, Arizona and New Mexico, were admitted to the Union in 1911, and the Pennsylvania provision for classification was incorporated in the constitution of the former.[1] New Mexico required uniformity in property taxation, but in the amendment of 1914 permitted classification of intangibles.[2] Nebraska in 1920 enacted a similar provision. Maine in 1913 by a differently phrased provision had similarly permitted classification of intangibles. Kentucky (1913) made provision for an elaborate scheme of classification, which must be analyzed in detail hereafter.[3] Likewise Minnesota (1906) limited the uniformity requirement to "each class of subjects,"[4] thereby permitting classification, the results of which permission must also be discussed later. Three states[5] adopted the Pennsylvania classification provision. The constitutional changes in Michigan (1908), New Hampshire (1902), and Virginia[6] (1902) did not involve changes in property taxation, neither the uniformity rule nor the universality requirement prevailing in these states. In 1924, California,[7] Florida, and Kansas adopted special amendments permitting the legislatures to classify certain forms of property. Ohio, after many ineffective attempts, finally permitted the classification of intangibles in 1929. In 1930, Washington and Utah permitted classification, the former requiring that all real property, the latter that all tangible property, shall be taxed uniformly. These later constitutional amend-

[1] Art. ix, sec. 1.

[2] Art. viii, sec. 1.

[3] Chap. xvii.

[4] Art. ix, sec. 1.

[5] North Dakota (1914), South Dakota (1918), and Louisiana (1918).

[6] In 1928, Virginia embodied her elaborate provision for classification of property under statute of 1926 in the state constitution.

[7] In 1928, California again modified her constitution to permit a 4 per cent income tax on banks and business corporations, and a 3-mill flat tax on credits.

ments indicate a new phase in classification, the legislature being permitted to classify only specified forms of property, usually intangibles.[1]

C. LEGISLATIVE DEVELOPMENT

The constitutional changes recited above reflect the corresponding changes in statutory tax provisions. In both cases there was, until 1860, the same swing from selective to universal and uniform taxation of property. In any particular state, however, there was not always a very close correspondence between what the constitution required or permitted and what the statutes prescribed and the tax officials actually practiced.

It would be an interminable task to review historically the general property tax practices and legislation of every state since the Revolution. It is possible only to sample the relatively small number of states that entered the Union during the period while the general property tax received its legislative sanction. In the states admitted later the general property tax was a part of the initial legislation.

1. *The Northwest Territory.*—Prior to the Ordinance of 1787 there was no government and hence no taxation, practically speaking, in the territory that now roughly comprises the states of Ohio, Indiana, Illinois, and Michigan. There was no territorial property tax prior to 1799, governmental costs being met chiefly by congressional appropriations. It is probable that the first tax law of the territory was enacted in 1792; it dealt with local taxes. But it is doubtful if any taxes were actually collected under it. The tax consisted partly of a poll tax and partly of a tax on property, determined by a rough estimate of the taxpayer's ability to pay.

The act of 1795, adapted from the statutes of Pennsylvania, apportioned the taxes among the taxpayers according to the "yearly value or profit" of their holdings. In line with this practice was the exemption of all unimproved or unsettled lands, an unreasonable preference favoring the speculator, that lasted only three years. The county board estimated the revenue required; the constable was to furnish the list of property; the county board made the apportionment among the

[1] For a more extended discussion of the classifications adopted under the permissive constitutional provisions, cf. chap. vii, *infra*, "The Classified Property Tax."

townships, and appointed persons to collect the tax. There was a supplementary head tax of $1.00 on single men over twenty-one years of age who held property less than $100 in value.

2. *The state of Ohio.*—Ohio was the first state carved out of the Northwest Territory. The Ohio acts of 1798 and of 1799 show strikingly how far the property taxes then prescribed differed from the later general property tax.[1] Probably no great change took place in the local taxes, but, in 1799, a territorial tax on land was provided. All taxable land, whether yielding income or not, was divided into three classes, the distinction being based largely on the quality of the soil; little or no consideration was given to location; this circumstance later led to serious dissatisfaction. The first class was taxed in 1799 at 85 cents, the second at 65 cents, and the third at 25 cents per 100 acres. By raising or lowering the rates, usually the former, the territorial, and after 1803 the state, government obtained an elastic source of revenue. Whether the rates were raised or lowered, the same relationship persisted among the rates on the different classes.

The state of Ohio managed to prosper under this system, without substantial changes, although the system grew increasingly unsatisfactory with the increase in population and the development of industry. There was no necessary relation between the income from and the capital value of the lands and their assigned classifications. The administration was unsystematic; land was often omitted from the lists; it tended to shift to the lower grades despite the increasing value. Finally, the segregation of land for state taxation only left an inadequate tax base for the local taxes.

Accordingly, in 1825, the system was abandoned. All taxable property, real and personal, was made taxable for state as well as local purposes. Such property as was enumerated was taxable. In part, the practice of statutory valuation was continued, as with horses, mules, and asses, which were valued at $40.00 each, and neat cattle which were listed at $8.00 each. But generally the basis was to be the money value of the property. Something like the modern tax machinery in the way of assessors and boards of review and equalization was set up.

[1] The best source, and the one chiefly used in this section, though not the only one available, is the study made by Professor E. L. Bogart, *Financial History of Ohio*, in the "University of Illinois Studies in the Social Sciences," Vol. I, Nos. 1 and 2.

The law of 1825 was, therefore, an approximation toward the general property tax. The approximation was made closer in 1831 and again in 1846, with minor modifications at other times. The list of taxables was extended and specific exemptions restricted. Without constitutional provision therefor, Ohio virtually had a general property tax by statutory requirement.

In 1851, such a constitutional provision appeared. The legislature had become distrusted in Ohio as well as in other states. It was charged with favoring certain corporations in selecting the list of taxables. It was deemed necessary to free "man, as such, his business, occupation, and profession from legislative caprice." The constitutional restrictions dealing with property taxation have endured to this day.[1] One section forbids a poll tax. Another states that "Laws shall be passed, taxing by a uniform rule, all moneys, credits, investments in bonds, joint stock companies, or otherwise, and also all real and personal property according to its true value in money." The act of 1852 provided statutory authorization for an ironclad, uniform, and universal general property tax, which repeated assaults have not been able to modify.

3. *The state of Illinois.*—When the Indiana Territory was created out of the Northwest Territory, it contained what is now Illinois.[2] Up to this point, therefore, the Illinois tax history is the same as that of Ohio, except that the more primitive conditions in Illinois made the tax laws less effective. The territorial government claimed the revenue from specific taxes on each 100 acres of land; and the local treasuries collected taxes on personal property only. This species of segregation obtained, with important changes in form, until 1838.

The one striking characteristic of the tax law of early Illinois was its instability. No session of the legislature adjourned without changing it. In 1805, for the purpose of apportioning the territorial tax, the taxable land was no longer to be classified, but was to be valued in money, and taxed accordingly. The county assessor was to obtain, at first annually and later quadrennially, the value of each 100 acres

[1] In 1929 an amendment permitted classification, and in 1931 statutory provisions therefor were enacted.

[2] The best source, and the one most freely utilized in this section, is the study made by Professor R. M. Haig, *op. cit.*

"according to the quality of the soil and the relative situation," ignoring improvements. The territorial auditor at first computed the rate necessary to yield the revenue required. But the legislature assumed this function in 1807, fixing a rate of 20 cents on each $100 of valuation. Probably but little revenue was actually collected while Illinois was still a part of the Indiana Territory; and the same may be said for some years after the organization of the Illinois Territory in 1809.

The tax law of 1812 reverted to the practice of segregation of taxable sources, classification of lands, and statutory valuation for the purpose of apportioning the territorial tax. Three classes of land were taxed. On the first class, the bottom lands of the Ohio and Mississippi valleys, a specific tax of $1.00 per 100 acres was imposed; on the second class of lands, consisting of all other located lands, the tax was 75 cents; and on the third class, consisting of claims to lands not yet located, 37.5 cents. With few modifications, this tax remained in force until 1818, when Illinois became a state.

The new constitution required "That the mode of levying taxes shall be by valuation so that every person shall pay a tax in proportion to the value of the property he or she has in his or her possession." Although this provision would seem clearly to require uniform and universal taxation of property, such was far from the common practice for at least the next twenty years. The question of squaring the tax practice with the constitutional requirements appears not to have been raised. It is probable that few were aware of the full implications of the constitutional requirement.

The tax law of 1819, instead of taxing all property, merely modified the former practice. Three types of property were selected as tax bearers: land, bank stock, and negro slaves. But a tax for county purposes could be levied upon town lots, carriages, distilleries, stock-in-trade, and such other personal property as the commissioners might think proper. The state took all the revenue from the bank stock, which was not a great deal; the counties took that from the negro slaves, which also was limited. The land-tax revenue was divided so that the state took all the revenue from the lands of non-residents plus two-thirds of that from lands of residents, the counties taking the remaining third. This arrangement was changed several times; but for twenty years no important modification of basic principles was made.

A change was made in 1819 in the method of classification and ad-

ministration. Each taxpaper was to declare the land he owned and the class to which it belonged. The first class was arbitrarily valued at $4.00 per acre; the second at $3,00; and the third at $2.00. The tax rate was fixed in 1819 at 5 mills on each dollar, with no provision for surpluses or deficits. Obviously such a system must have failed signally in making each taxpayer contribute in proportion to the value of property owned.

The period was one of experimentation, as may be further illustrated by a glimpse of the inchoate methods of municipal taxation. Each city, as it came into existence, received its charter by special act of the legislature. Each municipal tax was, at least at first, authorized by special act, which specified not only the purpose for which the money might be spent but also the property liable for taxation; and, in this respect, there was wide variation. Taxation for municipal purposes usually exempted the property from county taxation.

The tax law of 1839 fundamentally changed the system in the direction of conformity to the constitution. It specified that both land and personal property should be "valued according to the value thereof." It made the total of taxable property the common base for all taxes, state and local. It did not state specifically that all property was to be taxed; but it enumerated certain species, and included "all other descriptions of personal property"; and on all species the rate was to be uniform. Money actually loaned, without deduction for debts, was specifically enumerated.

Finally, in 1843, it was provided that "all property, real and personal within the state shall be liable to taxation," with the usual list of exemptions. The constitutions of 1848 and 1870 did not change the system of property taxation except as to include corporations for taxation in proportion to the value of their property.

If it were possible to present the history of property taxation in the other states, each state would be found to be similar to Ohio and Illinois in that constant experimentation was the order of every legislative session prior to the Civil War, with the statutory requirements and the administrative practices conforming rather loosely to the constitutional requirements for universality and uniformity. Such a detailed review, however, cannot be undertaken here, because adequate information is not at present available.

CHAPTER III

THEORY OF THE GENERAL PROPERTY TAX

It has been shown that property is, and usually has been the principal tax base for state and local purposes in the United States. A general analysis of the suitability of property for this purpose will be undertaken here. Briefly stated, what is sought is an answer to the question: Is it economically expedient to raise 80 per cent or more of the state and local tax revenue in the form of taxes on property, under existing and probable economic conditions? The answer must be based on pertinent facts and general economic principles.

I. CONCEPTS OF TAXABLE PROPERTY

For the purpose of such analysis it is important to have in mind a definite, rational concept of taxable property.[1] None of the existing American state property tax systems exemplifies such a concept. The systems are patchworks, adaptations of confused ideas to meet diverse local conditions, often sanctioned without a clear understanding of the nature of property or taxes. The hybrid concept apparently under-

[1] In this volume no attempt has been made to treat at length the nature and concepts of property taxation in antiquity, during the Middle Ages, and in the recent past, outside of the United States. Students interested in those fields should consult Professor Seligman's chapter entitled "The General Property Tax," in his *Essays in Taxation*, which is elaborately documented, chiefly with the works of German scholars.

Attention may be called to the work of Bruno Moll, *Probleme der Finanzwissenschaft*, especially to chaps. xii and xiii. In these two chapters Moll discusses the concept of property taxation and its relation to income taxation. This treatise appeared in 1924, after Seligman's book mentioned above.

For an excellent summary limited to one country Professor Bullock's paper, "The General Property Tax in Switzerland," in *Proceedings*, pp. 53–84, and reprinted in his *Selected Readings in Public Finance*, pp. 350–79 (3d ed.), outlines a property tax system, or a congeries of systems, nearer to those existing in the United States than any other, yet differing in important respects, the principal one being that the Swiss property taxes are relatively less important fiscally than those of the United States.

lying every state system is composed of parts of two widely different concepts, each of which alone would satisfy the rational requirement that all property should be taxed once and only once, but which in unreconciled combinations produce grotesque results in the form of multiple taxation and avoidance or evasion of taxes.

From what may be called, somewhat arbitrarily, the legal point of view, property consists of rights in or control over economic goods. Courts find it necessary, however, to recognize the popular use of the term "property" to designate material things which may be the "subjects" of ownership:

> The term "property" has a most extensive signification, and in its strict legal sense means that dominion or indefinite right of user and disposition which one may lawfully exercise over particular things or objects. But the word is often used to indicate the subject of the property or the thing owned, as a chattel or a tract of land. These things, however, though the subjects of property, are, when coupled with possession, but the indicia, the visible manifestations, of invisible rights, the evidence of things not seen.[1]

The economist faces the same necessity for distinguishing between "wealth" and "property." Wealth consists of material things plus such incorporeal rights as do not diminish the rights of others in material things. Such rights as patents, royalties, trade marks, good will, franchises, do not represent an interest in particular things owned by particular persons; they do not diminish the rights or interests of anyone in particular material goods. It is convenient to designate such rights as nonrepresentative intangible property, or merely as nonrepresentative intangibles. But the majority of rights in tangible or material things diminishes the rights of others in particular things. With land, where the most complete right or estate is that of fee simple, the debt of the owner secured by mortgage on the land *pro tanto* diminishes the equity of the owner in the particular parcel of land. There are many other rights in land which it is not necessary to mention here. They make the land worth less to the owner, because they diminish his rights or equity in it. Such rights may also exist in specific movable goods. Thus the equity of the owner in an automobile may be diminished by a chattel mortgage on it. But a great many rights are not secured by particular material things; they are not rights or

[1] *22 Ruling Case Law*, p. 37.

property *in rem*, but *in personam*. Accounts and bills receivable, judgments, bank deposits, and a great many other rights are of this nature.

Obviously, all of these rights and interests have a value in exchange, more or less accurately ascertainable in the market. Such value constitutes theoretically a perfect measure by which to tax all property. No property can escape and there can be no double taxation if every person is taxed according to his net rights or equities.[1] If one person holds all the rights in anything, he can be taxed according to their full value; and no one else can be taxed in respect to any part of it. Such pyramiding of equities as results from the corporate form of business organization, or from the holding corporation, constitutes only an apparent exception if the practice of taxing only net equities is strictly adhered to. And, if there be division of the rights, then the sum of all the parts will equal the aggregate rights; and each holder can be taxed in proportion to his share of the whole. The property tax on this basis would be a tax on the net equities of the taxpayer, or upon the difference between his assets and his liabilities.[2] It is a personal tax, imposed on the taxpayer in proportion to or in respect to the net value of his assets. The scheme is logical enough if the only requirement of the tax is that it must reach all property and must reach no part of it more than once. There are, however, other requirements of taxes and tax

[1] Net rights in the sense of the positive difference between total rights and obligations.

[2] This is the concept of property, as a tax base, usually adopted by European scholars. Thus Professor Walther Lotz, *Finanzwissenschaft* (1930), p. 525, defines property as follows: "Unter Vermögen versteht die Theorie der Volkwirtschaftslehre für die Gegenwart den Geldwert der in Geld oder anderen Dingen bestehenden Sachgüter, über die einer Person ausschliessliche Verfügungsgewalt zusteht, sowie den Geldwert der einer Person zustehenden sonstigen Rechte, abzüglich der geschuldeten Summen, also Aktiva minus Passiva." A tax on property, so defined, is usually designated in German as "die Vermögenssteuer," and that is the word used in translating the words "general property tax," as used in the United States, into German, notwithstanding the fact that the American property tax is something far different. The French language has no single term for the concept under discussion and uses the phrase "Les impôts généraux sur la propriété," or some similar set of terms. When European writers discuss property taxation, and, specifically, the general property tax, which they nearly always condemn severely, except as a supplementary tax of minor fiscal importance, they usually have in mind some actual or hypothetical system much more rational than the typical state systems in the United States.

bases which render the consistent application of property rights as tax bases impractical and even impossible.

No less perfect as a tax basis than the lawyer's list of rights, is the list of tangible objects in the possession of each taxpayer, plus such categories of intangibles as good will and patent rights, which do not represent rights in particular tangible objects. If every unit of land, and every unit of capital goods, be taxed to the holder, then all property can be reached once, and once only. There can be no double taxation of property, and no property can escape. The list of tangible goods as a tax base would yield the same result as the list of rights therein, to the extent that either would reach all property, and do so only once. Such a tax, on things rather than on net equities, disregarding the economic condition of the taxpayer, corresponds, in fact, much more closely to the realities of American property taxation. It ought to be called a tax on possessions, although such a name would fail to describe accurately the existing state systems. Such is the impression of the only non-American scholar[1] who has attempted to study specifically the general property tax of this country. The American general property tax is an excellent example of a nation-wide institution, which touches the interests of the people at innumerable points, being designated by a name that has long since lost most of its significance.

Certain practical considerations have been regarded as rendering the exclusive and consistent use of either of the foregoing bases impossible. In the first place, property, objectively speaking, is not always or even usually owned in fee simple; it is owned ostensibly by the person in possession, while the principal equity may be held by someone else. In using ownership as the tax basis, the tax administrator would have to determine the net equities of every taxpayer; this is too frequently an impossible task.

[1] Bruno Moll, *Zur Geschichte der Englischen und Amerikanischen Vermögenssteuern.* On p. 100 he says: "Wenn ich auch immer wieder betonen möchte, dass es mir in meinen Untersuchungen weniger auf den Namen ankommt, als auf die Sache, so glaube ich doch, dass es bezeichnender wäre, wenn man anstatt von den amerikanischen Vermögenssteuern lieber von 'Besitzsteuern' reden würde." Dr. Moll's reasons for preferring the term "Besitzsteuern" (taxes on possessions) to the term "Vermögenssteuern" (property taxes) are that (1) the former term is more definite in meaning than the latter, whose meaning is very general and uncertain, and (2) it reflects more accurately the actual practice, if not always the law, of American property taxation, which is in fact much more truly on things than on equities.

In the second place, the actual owner, whether of complete or only partial estate in any good, may be a resident of one tax jurisdiction while the objective property is situated in another. The question then arises: Where are the taxes properly due? Both districts may be said to have some claim to contributions.[1] To tax on both bases would be equitable so long as both the nonresident and the resident owner are taxed on both the ownership basis and the objective basis. But, aside from the objection to the unnecessary cost of laying the tax on a double basis, such an arrangement would meet a practical obstacle in the attitudes both of legislators and tax administrators.

In the third place, certain properties, such as land and improvements, are more obviously taxable at their location than at their ownership; while, at the other extreme, most representative intangibles cannot well be taxed elsewhere than at the owner's residence. The tax laws consider now one place, now the other, as a taxable situs, and sometimes both. The confusion and multiple taxation that often result when the holder of a divided estate is taxed as if he were the holder of the undivided estate, with no allowance made for this fact in taxing the other partial holders, are widespread and serious. They would be much more serious were the tax laws effectively administered. So long as it be granted that all tangible and all nonrepresentative, intangible property should be taxed once and only once, it is not merely a question of administration whether the tax shall be paid by the equity-holders or by the person in possession or control of the property.[2] The choice of the taxable base, whether the equity or the possession of the goods, determines the distribution of the revenue among states and among localities.

In recent years, however, the view has been stressed that all tangible property and all nonrepresentative, intangible property should be taxed where it is located and presumably economically employed. In that jurisdiction is generated whatever ability to pay taxes—in so far as the generation of such ability may be assigned to a specific locality—

[1] For a discussion of the problem of multiple taxation, see E. R. A. Seligman, *Essays in Taxation*, chap. iv. Also Francis Walker, *Double Taxation in the United States*.

[2] In case of partly representative intangibles, such as corporate shares of stock, there is also the problem of ascertaining the extent to which they are such.

the owner of the property may possess by reason of ownership and use of the property; and in that jurisdiction is enjoyed the benefits of public services. This doctrine of economic allegiance has recently received a stimulus from an unexpected quarter. The League of Nations and co-operating organizations have during the past decade considered intensively the question of international multiple taxation and tax evasion. The experts have found, as one of the by-products of their labor, that some of the principles involved are applicable to interstate and intrastate tax conflicts as well as to international ones.[1]

The basic concept of general property taxation adopted for analysis here is, accordingly, that in which all tangible, and all nonrepresentative intangible property is taxable on a uniform assessment ratio, at a uniform rate in each taxing jurisdiction, where the property is located or may be constructively located,[2] regardless of the division of equities and the residence of the owners of such equities.

II. INCIDENCE AND CAPITALIZATION

Before an appraisal can be made of any tax it is necessary to know in some measure whether it is shifted or capitalized. With the general property tax, as with any other compound tax, no analysis of incidence can be made until the tax has been broken up into its component parts. H. G. Brown states that the incidence of the general property tax is "a compound of the incidences of its several parts."[3] Despite the unwieldiness of such a "compound incidence," no better approach is available. Students of incidence and shifting of taxation have used it;[4] they treat the various parts of the general property tax as if they were separate taxes. If the incidence is affected by such unitary character as

[1] E. R. A. Seligman, *Double Taxation and International Fiscal Co-operation*, (1928), and references there given.

[2] Nonrepresentative intangibles are usually constructively located at the domicile of the owner, as in case of patent rights, royalties, good will, or franchise value.

[3] *Economics of Taxation*, p. 259.

[4] E. R. A. Seligman, *Shifting and Incidence of Taxation*, pp. 298–324, argues that it is improper to try to separate the tax on urban land and urban improvements. He considers the two as a tax on urban real estate. He does, however, treat personal property taxes separately, although it would appear that a tax on urban improvements resembles the tax on producers' capital more closely than it resembles the tax on land.

the general property tax possesses, there is no clear recognition of it.[1]

Not many careful writers today would argue that all parts of the general property taxes are shifted. David A. Wells, however, believed that all taxes, including the general property tax, were diffused. His arguments are inadequate in supporting the diffusion theory for taxes on property as such:

> Taxes uniformly levied on all the subjects of taxation, and which are not so excessive as to become a prohibition on the use of the thing taxed, become, therefore, a part of the cost of all production, distribution, and consumption, and diffuse and equate themselves by natural laws in the same manner and in the same minute degree as all other elements that constitute the expense of production . . . . until they finally fall upon every person, not in proportion to his consumption of a given article, but in the proportion his consumption bears to the total consumption of the taxed community.[2]

The diffusion theory thus described should be considered subject to the restrictions which Wells himself imposed. He was careful to point out that where the taxes were not "uniformly levied" they would not be equally diffused. Thus if property in one taxing district were taxed at a differentially higher rate, whether due to partial nonlisting, to unequal valuation, or to differential tax rates, the differential part of the tax would be capitalized, or, at any rate, not equally diffused. This factor must be kept in mind in any explanation of shifting and incidence of the general property tax. But, even so restricted, the diffusion theory is wrong. It is, in fact, necessary to consider each main class of property by itself, and within each class there will be necessary subdivisions.

A. TAXES ON INTANGIBLES

Our hypothetical concept of property includes nonrepresentative intangibles. This class of property is of a miscellaneous character, and it appears that for this reason the shifting of taxes on such property is uncertain. In view of the minor fiscal significance of taxes on such property it is not a matter of great importance whether the theory of shifting here presented is accurate in detail or not, although a correct

[1] Brown, *op. cit.*, pp. 248–54. For a contrary view, cf. Seligman, *Shifting and Incidence of Taxation*, p. 227.

[2] David A. Wells, *The Theory and Practice of Taxation*, p. 584.

theory of shifting would be helpful in determining whether such property should be taxed, and in what manner. It would seem that most forms of nonrepresentatives are more or less monopolistic in character and hence taxes on them are not readily shiftable. Business good will and corporate excess, perhaps the most important form of nonrepresentatives, may be taken as probable evidence that the owners are supramarginal. Such assets will not generally occur except where the business is earning something in excess of the economically necessary return to retain capital in the particular line of business. If the earnings are merely the current return, the value of the physical property would account for the total value of the property. The tax on the supramarginal would not move the concern to curtail production.[1]

Our concept of taxable property does not include representative intangibles, but as attempts are often made to tax them, they will be considered briefly. Two cases of taxes on representatives may be singled out. In one, the representatives may be taxed in lieu of similar taxes on the tangible property on which they are based. Here the shifting possibilities are probably increased beyond what they would be were the tax placed directly upon the tangible property, because of the greater mobility of the intangibles than their basic tangibles. In the other, the tax on the representative intangibles may be in addition to like or different taxes on their basic tangibles, as where, for example, mortgages are taxed at the ad valorem rate and the underlying real property or chattels are taxed similarly on full value without deduction of the debt. This class of multiple taxation of course tends to make the taxes on different units of land and capital unequal, since all classes of land and capital are not encumbered to the same extent.

Another source of inequality exists in the variation among tax rates among different taxing districts. The most difficult factor, however, is that taxes on representative intangibles do not in any state apply to all intangibles; the laws allow in varying degrees for deduction of debts against "solvent" credits; and, most important of all, these taxes, as will be shown, are rarely and irregularly imposed in practice. If we had such taxes, imposed at a uniform rate on all representatives, so that all tangibles would be taxed once as such, and all equities would

[1] It is the long-run effect that is here considered. The short-run effect might be different. Cf. H. G. Brown, *op. cit.*, pp. 118–40, 180–83.

be taxed once as such, it might be possible to construct a rational theory of incidence. As it is, such a theory rarely has any value except as mental gymnastics. Where, as in some states, the property tax on bank shares is uniformly enforced, it may be concluded that the tax is, in the long run, shifted to borrowers in the form of higher interest rates, or to other patrons in the form of reduced miscellaneous banking services. Such would also be true, where, as in Kentucky, the tax on bank deposits is collected at the source, from the banks.

But where, as is almost universal, the tax is evaded through nonlisting, the expectation must be that intangibles will be bought on the assumption that payment of the tax will not be required, that is to say, at a price not allowing for the tax. And, except for an uncertain allowance because of the risk, the price will be the same whether in a few individual instances the tax is paid or not. At best, or worst, in such cases, the interest rate will be increased only by an amount adequate to induce investors to run the risk of apprehension of their intangibles for taxation. Beyond this conclusion, in view of the facts, it is not worth while to pursue the theoretical analysis.

B. TAXES ON TANGIBLE PERSONALTY

As to tangible personal property we are similarly hampered, though not to the same degree, by varying rates and imperfect assessment. Here also, a subdivision is necessary, into consumers' goods and producers' goods. Taxes on consumers' goods will tend to remain where they are placed, for there is no market subsequent to the imposition of the tax through which the owner can reimburse himself through higher prices. In the case of nonreproducible works of art or personal effects, this statement admits of no exceptions. Possibly taxes on some forms of consumers' goods cause some degree of economizing in the purchase of such goods, and, if so, result in a backward shift to the industries producing these goods. But that effect cannot be important, because, if economizing is practiced in the purchase of some goods, more purchasing power becomes available for others.

It is when we turn to an analysis of the shifting of taxes on producers' capital, whether levied as a part of the general property tax or separately, that the answers gathered from the books are most unsatisfactory. Seligman, after stating emphatically that sumptuary taxes

cannot be shifted, proceeds to discuss the incidences of taxes on "capital."[1] But the kind of capital covered in his discussion is almost completely limited to intangibles, such as mortgages and bonds. His conclusion, covering such intangible producers' goods, is that in so far as the tax is universal it must be borne by the capitalist, there being no alternative field of investment; but that in so far as it is exclusive or unequal, it will be shifted. Apparently he intends to extend this conclusion to cover also tangible capital. Such a conclusion appears to be much too sweeping. For example, in so far as the general property tax falls on wheat, of which there is an exportable surplus, and of which the price is determined in a world market, it cannot be argued that any appreciable part of the tax is shifted forward. In particular, it would seem erroneous to argue that the excess of unequal taxes over the average would be so shifted. For, while it may be argued that in the long run the return to American wheat growers must be high enough to include the total cost, including taxes, in order to maintain the American supply, it cannot be argued that a differentially high tax rate in one taxing district will *pro tanto* increase the price of wheat produced in that high-tax district. What is true of wheat must be true of many tangible producers' goods, such as livestock, machinery, and merchandise.

Brown's analysis is somewhat different, and is, for the moment, accepted here as tentatively correct. As for taxes on all capital, he concludes "that a tax which reduces the net returns from the ownership of capital as such, might so affect accumulation as to make the supply of capital less, its marginal productivity greater and gross interest higher, so throwing the burden of the tax in the long run, partly upon others than the owners of the capital."[2] He goes on to say, however, that it is by no means certain that a reduction in interest will retard accumulation and diminish the supply of capital. If it does not do so, the general taxes on capital must remain where they are imposed in the first instance, on the owners. Where the tax is unequal,[3] Brown holds

[1] *Op. cit.*, pp. 326–37.

[2] *Op. cit.*, pp. 190 ff. For a discussion of a different possibility, cf. subsection C, *infra.*

[3] But not where it is erratic and discriminatory, as would result from varying local rates or improper and unequal assessments.

that "in the long run, a tax on capital in special fields, which does not apply to capital generally, is certain to be shifted. For capital wears out and has to be replaced." The supply of capital in the taxed field would be reduced, its marginal physical productivity raised, the marginal physical productivity of labor and land reduced, and the prices of the final products of the industry or industries using the taxed capital would tend upward. But there is nothing in the situation to require an upward trend in all prices; and the upward trend in the prices of the products of the taxed capital will be compensated for, at least in part, by lower prices of other products, and the owners of the relatively untaxed capital must bear this deduction. The tax thus in large measure rests on the income from capital in general,[1] even though the tax is imposed on some part of capital only.

If it is true, as Professor Brown says, that the incidence of taxes on producers' goods tends to be on the owners so long as the taxes are regularly and uniformly levied, whether on such capital in general or on special kinds of capital, there remains the question of the effect upon the incidence of the inequalities in the taxes due to varying local tax rates and to unequal assessments. So long as the discriminations are merely erratic and temporary, the principal effect would be to impose unfair burdens on the overassessed taxpayers and to give undeserved relief to those underassessed. But where the local discrimination against certain capital goods is persistent, or where high local tax rates result from relatively low assessed valuations, further analysis is necessary. For the prices of the products of such local industries could not be increased, nor could the prices of raw materials of such industries be reduced. If neither of these offsets for high local taxes were available, the local industries could continue only on the condition of low rent for land used in the business. But all three of these factors operate to depress the value of local fixed property. And the only class of property that is completely fixed is the bare land. Hence differentially high local taxes on producers' goods will tend to be capitalized in the form of depressed local land values.

There are two important implications in the analysis so far, which will be hammered out while the iron is hot. If it is true that the incidence of a tax on capital, uniformly levied, is upon the owners of capi-

[1] Brown, *op. cit.*, p. 183.

tal in general, regardless of whether the tax is on capital in general or only upon special lines, then it is not necessary that all kinds of producers' goods be subject to the tax. There is no good reason why the property tax should be general. The purpose of uniformity would be better served if the taxes were imposed only upon such typical forms of producers' goods as are found in practice to be assessable with reasonable success. The importance of this conclusion will be strikingly seen in the later chapters which deal with the administration of the general property tax. For some economy in administration would be attained by taxing a smaller number of "practicably assessable" items. The erratic variations in the assessments which produce the shocking inequalities would be reduced in number if the assessment were limited to such items as can practicably be reached.

The second implication is that, when properly defined and administered, the taxation of property is sound. No fault can be found with the incidence of a tax being upon owners of capital in general except in so far as such a tax tends to become the sole tax, and thus tends to make the total tax proportional to capital or to income, which precludes any degree of progressive taxation. If, on the other hand, the analysis of Mr. David A. Wells were correct, to the effect that the taxes on capital were shifted, as costs of production, to the consumers, the incidence would be objectionably regressive. There is nothing objectionably regressive in a tax[1] whose incidence is proportional to capital owned. But there is objection to a tax, yielding 80 per cent or more of the state and local public revenue, whose incidence is in proportion to consumption,[2] and, therefore, regressive according to income.

C. TAXES ON IMPROVEMENTS

There remain for consideration two categories of taxable property, land and improvements thereon. Professor Seligman treated these two

[1] Considered not as the sole source of revenue, but as one of the major sources, perhaps the principal source.

[2] Mr. Wells said: "A great capitalist, like Mr. Astor, bears no greater burden of taxation (and cannot be made to bear more by any laws that can properly be termed tax laws) than the proportion which his aggregate individual consumption bears to the aggregate individual consumption of all others in his circuit of immediate consumption; and as to his other taxes, he is a mere tax collector, or conduit, conducting taxes from his tenants or borrowers to the State or city treasury" (*op. cit.*, p. 584).

as one, but divided the whole into agricultural land and urban real estate.[1] The principles governing the shifting of taxes on land are, however, different from those governing the shifting of taxes on improvements, while the latter resemble or are identical with those that determine the incidence on producers' capital; hence it is more logical to treat the tax on improvements separately. It is true that some difficulty is involved in distinguishing satisfactorily between land and improvements, much more than in distinguishing between improvements and producers' goods. But probably the reason is largely that the distinction between land and improvements is material, since the governing principles are different; while the distinction between improvements and producers' capital is, at any rate, less important, since the governing principles are similar if not identical. For improvements, like producers' capital, are reproducible goods, while, with certain minor exceptions, land is not. If a tax on producers' capital rests upon owners of capital in general, is there any reason why this does not also hold true for improvements?

The most obvious difference is of course that improvements are, in a physical sense, fixed. The expense of moving improvements is usually prohibitive, when at all possible, while movement is usually possible and frequently occurs for producers' capital. But the fixed character of improvements merely has the effect of checking the process of equalizing supply and demand at the normal price level. It widens the spread between the long-run effects and the short-run effects of the taxes on improvements as compared with taxes on movables. It is not so certain, however, that the mobility of movables is much greater, for there may be a fairly ready transfer of some improvements from one use to another. Residences may be used as offices, or stores, or vice versa. Such transfers of course also occur among items of movable property, but not always readily.

If, then, the factors affecting shifting of property taxes are essentially the same for both movable and fixed capital goods, we may raise the question, for both classes, Must the owners of capital goods in general finally bear the tax, or may they, after all, shift it to others? If they continue to furnish the same capital goods regardless of the reduction in the reward for their service resulting from the tax, they

[1] *Shifting and Incidence of Taxation*, pp. 255, 277.

are bearing the tax. In other words, the question is, Will they save as much at a reduced rate of interest as before? Neither theory nor available statistics can give an answer. Perhaps it is not possible to determine, at any rate no one has yet determined, the effect of the interest rate upon saving. It is clear that some would save as much at 4 per cent as at 6 per cent; perhaps others would save more, still others less. But the net result is in doubt. We must content ourselves with statements of alternative possibilities and their results.

If the rate of saving is not affected by the reduced rate of interest, the owners of capital in general will bear the tax, and the incidence of the tax will tend to be proportionate to the return from capital. If, on the other hand, the reduction in the rate of return would tend to check saving, there will tend to be less capital, the marginal productivity of capital will be increased, the marginal productivity of labor perhaps decreased, the physical output decreased, and prices possibly increased, thereby shifting the tax in part to others than the capitalists. The incidence will in part be proportionate to expenditures, and hence regressive according to income. In view of the fact that some savers, at least, are not affected in their saving by the rate of interest, it would appear possible, either that all of the tax upon both fixed and movable capital goods must be borne by the owners of capital, or that they may shift a part of it; but it is extremely improbable that they could shift all of it.[1]

D. TAXES ON LAND

The peculiar position of land arises from the fact that it is nonreproducible and hence has no cost of production. The value of land is the capitalized net income, the economic rent. But on marginal land, at the extensive margin, there is no rent, hence, no capital value, and hence no tax.[2] The tax on the capital value will, therefore, not induce the owner of the marginal land or any other land to withdraw it from use. There can be no reduction in the supply of land, and, as demand is unaffected, no change in the amount or the price of the products of

[1] Cf. Brown, *op. cit.*, pp. 184–98.

[2] Except where the assessor erroneously assigns a value to land that is really marginal. That such is often done, and that the presence of a "market value" on marginal land, often gives the assessor some show of justification, will be shown below.

land, and hence no shifting of the tax. The tax simply reduces *pro tanto* the net return to the owner, or absorbs a part of the rent.

Such is the theory of shifting, or nonshifting, of taxes on land—that is, on bare land. It has been the doctrine of the classical school of economists since the days of Ricardo, who is credited with the theory of rent which involved the conclusion here drawn. In so far as the tax is on the "sheer" rent of bare land, the theory of no shifting has not been seriously shaken. One of the most recent critics of the Ricardian theory writes:[1]

> Since natural land as a primary factor of production is both incapable of increase and indestructible, any tax laid upon the sheer rent of this land will have no influence on the market, ... for the same reason it cannot be shifted. . . . . But we must not conclude that the ground-rent is of no consequence in regard to the supply of land utilities of a certain quality . . . . the ground-rent may attract to the production of land in competition with natural land. We clearly cannot take away from this producer the part of the rent which represents the interest on the investment capital required without injuring the production activity in question.

The argument is that when high land rents have induced the application of labor and capital to the creation of land-utilities in the form of irrigation, draining, transportation, etc., which make natural land more effective and check rent on other land, then the interest-like rent on such investments cannot be taken without checking future commitments for such purposes. Such land-utilities are not land, but capital. The "nibbling" at the Ricardian doctrine usually consists in restricting that part of "natural land" as much as possible. Fertility, though natural in varying degrees in most lands, is destructible, and taxes may discourage its maintenance. Thus fertility comes to be not land but a capital good subject to the same laws of incidence as Cassel's land-utilities. But, after all, the effect of stripping the Ricardian concept of "natural land" of all its "powers," not both "original" and "indestructible," can be overestimated when it is remembered that if these powers are not land they are capital goods, like improvements, and if the preceding analysis is correct, the incidence of a general tax on all capital goods is likely to be on the owner. Whether, then, the incidence of taxes on such disputed "powers" of the land is on the own-

[1] Gustav Cassel, *The Theory of Social Economy*, p. 259.

ers of the "land" or on the owners of the "improvements" cannot greatly alter the conclusion that little or no shifting can take place.

In summarizing this section, the conclusion is warranted that the taxes on the several items of the conglomerate concept of general property are in large part shiftable, and are shiftable to different degrees on the different items. That part of the aggregate property tax that is shiftable is much less than the part that is not shiftable, because, in general, some degree of nonshifting surely occurs in all items, while shifting may be negligible in some; and with taxes on land and improvements, the most important property taxes, there is little or no shifting. Since the taxes that are not shifted, or are shifted backward to the land, must be capitalized, the phenomenon of capitalization must next be considered.

III. THE MECHANICS AND CONSEQUENCES OF CAPITALIZATION

In spite of its importance, evidently not always obvious, the phenomenon of capitalization of property taxes, with its mechanics and its consequences, has been much neglected in tax literature. To this neglect may be partly ascribed the delay of reform in property taxation, for it has perpetuated, or permitted to continue, certain misunderstandings of the nature of property taxation. It is argued against high tax rates, for example, that they "confiscate" the capital value of the taxed property by reducing the net income after taxes. It has been assumed that the "confiscation" process would be complete when the tax rate should become so high as to equal the current rate of interest,[1]

[1] Cf. R. T. Compton, *Fiscal Problems of Rural Decline*, Special Report of the New York Tax Commission, p. 21. "Studies of farm incomes in some of the declining agricultural regions of New York State indicate that property in these regions does not yield any income to the owners beyond the ordinary farm wages. There are many farms that do not pay more than four per cent on assessed valuations. In some towns the combined property taxes are considerably more than four per cent of assessed valuation. Where this is the case the taxes are confiscatory." Elsewhere in his study Compton shows that many farms in New York yield no income, yet have a market value, sustained perhaps in part by a "forlorn hope for better times," but chiefly by prospects for "sucker sales."

The use of the terms "confiscation" and "confiscatory" is often confusing. The original meaning of the word, whose roots are the Latin *con* plus *fiscus*, "treasury," was the seizure of private property for the treasury, *fisc*, on the ground of forfeiture. The original meaning still lingers in a feeling that confiscation means taking the

because at that point, it is assumed, the tax would take all of the income. Observation and interpretation of actual conditions should have corrected this misunderstanding. There are, in fact, many taxing districts in which the tax rate on a full valuation exceeds 5 per cent, a rate probably in excess of the rate used to capitalize the income from farm real estate, and possibly also in excess of the rate used in the capitalization of the income from certain urban properties. If the widely prevailing thought were correct, such property should have no value, and there would be no tax, since the tax is a mathematical function of the value. Yet, there being no tax, the value should be unimpaired; and the vicious circle of reasoning can again begin.

One consequence of the error is that the assessor continues to appraise the property at a value independent of the tax.[1] If the tax were shiftable, such procedure would be correct; but, since the lion's share of the tax on property is not shiftable, the error may result in grievous inequalities, and, as will be shown later, in making the property tax regressive. The truth is that no property tax based on capital value, however high the rate, whether 1, 5, 50 or 500 per cent of the capital value,[2] can completely destroy the capital value, although, by making the rate high enough, we may come as close to the destruction of the capital value as we please,[3] provided that the net income before taxes is ascertained, and the proper interest rate used in the capitalization, as shown in the formula, $C=\frac{A}{I+R}$.[4]

---

physical property itself. But taking all the income will effect substantially the same result. And any nonshiftable tax that is capitalized is "confiscatory" in so far as it reduces the capital value.

[1] If he based his value on market price, and if market price correctly reflected capitalized income, this error would not occur. But often neither assessors nor buyers or sellers adjust their value to capital value.

[2] Of the annual value, all that can be taken is, of course, 100 per cent.

[3] In a communication to the *American Economic Review*, XX, No. 4 (December, 1930), 685–86, Mercer G. Evans demonstrates the truth of this statement.

[4] The formula is merely the regular capitalization formula, $C=\frac{A}{I}$, modified by the tax rate. But anyone can easily derive it for himself from the original equation:

$$C=\frac{A-RC}{I}=\frac{A}{I+R}.$$

The factors of the equation are easily explained. Assuming that the net income before the tax, the interest factor, and the tax rate are known, what is sought is the capital value of the property, as affected by the tax. Let C represent the capital value; A, the amount of the annual net income before taxes; I, the market rate of interest used in the capitalization;[1] and R, the tax rate, expressed as a percentage of C. It is assumed that the tax is not shifted and that A, I, and R are constant. Were there no tax, C would equal A divided by I. But, since R is positive, the amount of income after the tax is less than A, by the product of R and C, because the amount of the tax is the tax rate times the capital value, which is the assessed value, assuming the assessment to be made at 100 per cent of the capital value.

Anyone can easily satisfy himself that no finite tax rate, however high, can consume all the capital value,[2] though the "confiscation,"

Professor C. C. Plehn used a slightly different formula for the same purpose in a paper, printed in *Proceedings, 1924,* pp. 99–103, Appendix, "Tax Rates and Land Values." Professor Plehn there cites an earlier treatment by himself of a kindred subject, entitled "Study of the Incidence of an Increment Value Land Tax," in *Quarterly Journal of Economics*, XXXII, No. 3, 487–506.

[1] In Plehn's formula, referred to above, instead of the interest factor, I, being used as a divisor, its reciprocal (here represented by P) is used as a multiplier, being known as the number of years' purchase of the rate, as follows: $C=P(A-RC)$, from which $C=\frac{PA}{1+PR}$.

[2] The contrary belief arises from the false assumption that C is not affected by R. On that false assumption we would have, using the same values for A and I as below: When R is 0, then

$$C=\frac{A-RC}{I}=\frac{\$1,000-0}{.05}=\$20,000\,;$$

when R is 20 mills, or 2 per cent,

$$C=\frac{\$1,000-.02\times\$20,000}{.05}=\$12,000\,;$$

and, when R is 50 mills or 5 per cent,

$$C=\frac{\$1,000-.05\times\$20,000}{.05}=0\,.$$

In other words, the amount left, after the tax, decreases as R increases, until, when R equals I, there is nothing left, after the tax. But how could any property which had no income left after taxes be worth \$20,000, or any other sum?

as it is often called, may be made as nearly complete as desired, by substituting the proper values for the symbols and solving for C. Thus, if A is \$1,000; I, 5 per cent; and R, 0, 1, 5, or 100 per cent successively, as below, we have:

$$C=\frac{\$1{,}000}{.05+0}=\frac{\$1{,}000}{.05}=\$20{,}000.00$$

$$C=\frac{\$1{,}000}{.05+.01}=\frac{\$1{,}000}{.06}=\$16{,}666.67$$

$$C=\frac{\$1{,}000}{.05+.05}=\frac{\$1{,}000}{.1}=\$10{,}000.00$$

$$C=\frac{\$1{,}000}{.05+1.00}=\frac{\$1{,}000}{1.05}=\$\quad 952.38$$

If we were to express the tax rate as a percentage of A rather than of C the rate could not exceed 100 per cent without destroying all of C.[1] Such is the English practice in the local "rates," the "rate" being stated as a percentage of the rental rather than of the capital value, not of general property, but of real property only. The difference in practice is due to different conditions in the two countries, the rental value being more readily available in England, the capital value in the United States. The English practice is the simpler and less likely to be misleading.

Various other truths, often either overlooked or not given their deserved emphasis, may be demonstrated by means of the formula. Thus, $\frac{RC}{I}$ is the capital value of the amount taken by the government, as $\frac{A-RC}{I}$ is the capital value of what is left for the owner. But

$$\frac{RC}{I}+\frac{A-RC}{I}=\frac{A}{I}$$

Thus, if A is \$1000; P, 20 (the reciprocal of .05); and R, .05, then

$$C=\frac{20\times\$1{,}000}{1+20\times.05}=\$10{,}000\,.$$

[1] In that case, $C=\frac{A-RA}{I}$, which value would be zero as soon as R reached 100 per cent, or unity.

or the total capital value of A as it would have been if there had been no tax. For this value of $\frac{A}{I}$ we may adopt a new symbol, V, which is the sum of the equity of the owner, plus the equity of the public treasury by reason of the sovereign power to levy taxes on property. The owner and the government are, in essence, joint beneficiaries of the aggregate capital value of property. Each essentially owns an annuity, the sum of whose capital values is V and the sum of whose annual values is A. The share which the state takes of A may be conveniently stated in terms of the tax rate R and the interest rate I, as follows: from original formula,

$$A=C(I+R)$$

$$\frac{A}{C}=I+R$$

$$\frac{C}{A}=\frac{1}{I+R}$$

$$\frac{CR}{A}=\frac{R}{R+I}\,.$$

But $\frac{CR}{A}$ is the tax, divided by the yield before the tax, and hence is the share of the yield, A, before the tax, taken by the government, and the share of the capital value which the government has taken for itself. Thus, if R is .01 and I is .05, then the state's share is $\frac{.01}{.01+.05}=\frac{1}{6}$ or 16.67 per cent. If R instead is .05, then the state's share is $\frac{.05}{.05+.05}=\frac{1}{2}$, or 50 per cent. And if R is 1.00, or 100 per cent, then the state's share is $\frac{1.00}{1.05}=\frac{20}{21}$ or 95.47 per cent. The government, or society, if one prefers, does not limit itself to a fixed share of V. It takes what the authorities deem necessary, leaving the balance for the owner, who is thus the residual beneficiary.

If the foregoing formula is turned to other uses, such as actually to compute C for assessment purposes, it should be used with great caution. In the first place, it is valid only in so far as the tax is not

shifted, and not valid where C is modified by some other factors[1] than R, I, and A. In practice, except for taxes on land, these factors would be difficult to determine. In the second place, the value of A is not known, for it is a variable and uncertain A for a series of future years that must actually be reckoned with.[2] The same is true for R. In normal conditions in most American communities both A and R have been increasing, but the rates of increase, or even the certainty that they would increase, have seldom been predictable. Even I of the future is not accurately predictable.

Perhaps the one thing most strikingly demonstrated by the capitalization formula is the similarity, though not the identity, of property taxes to the quitrents[3] paid in many of the colonies by settlers upon the virgin soil. It is true that the taxes are not, as were the quitrents, in the form of a fixed sum, say 1 penny per acre of land, though at that time taxes were frequently levied as a fixed sum per acre. It is also true that the taxes are not debts, while the quitrents were partly contractual payments and partly remnants of feudal dues. Likewise, there is no historical connection between the quitrents and property taxes. But, from the economic standpoint, the two forms of contributions are alike in that they are permanent annuities, payable by the property owner, *pro tanto* diminishing his annual net return and proportionately reducing his equity in the land, always only, be it repeated, in so far as they are capitalized. As evidence of the then recognized similarity may be cited the effective opposition of the colonial landowners to the imposition of land taxes along with the quitrents. Thus in North Carolina there existed a land tax of $2\frac{1}{2}$ shillings per 100 acres of land during the five years of 1715–20, and at the rate of 1 shilling and 8 pence for two years thereafter.[4] These were apparently the only property taxes in North Carolina prior to the Revolution, when the quitrents were abolished and property taxes began. "For many years

[1] Such as an anticipated transfer to some higher use, as for residential sites.

[2] If A increases by a constant amount annually, E, then the capitalization formula, without any tax, is $C=\frac{A}{I}+\frac{E}{I^2}$.

[3] *Supra*, chap. ii.

[4] Coralie Parker, *The History of Taxation in North Carolina during the Colonial Period*, pp. 126–27.

quitrents were used as a pretext by landowners pleading for immunity of land from its share of taxation."[1]

The fact that American property taxes are chiefly taxes on possessions still further justifies the emphasis upon their quitrent-like aspects. For, like the quitrent, and like interest on mortgage indebtedness, they are payable as a condition precedent to the continued use of the property, regardless of the economic condition of the taxpayer.

Unfortunately few inductive studies exist that could be used to check the preceding deductive analysis. Especially lacking are such studies covering urban property. The United States Department of Agriculture, however, working in co-operation with the agricultural experiment stations of a number of states has recently presented the results of studies covering property taxes on farms in these states, related to the net returns from and the value of farm real estate. There are too many as yet uncertain factors in the two basic variables, net returns and taxes, for anyone to be justified in pressing the conclusions very far. The speculative factor in real estate values is not, moreover, and perhaps never will be, reducible to manageable terms for computation. Nevertheless, the data presented, covering only relatively small samples and only a few years, are at least not incompatible with the deductive conclusions of the present section, and in many cases strongly corroborate them.

Table 16 shows the net rent per acre, property taxes per acre, and the percentages of taxes to net rent, for farms in fifteen counties situated in thirteen states, for the years 1919 and 1924. In ten of the fifteen counties the net returns per farm declined, and in all fifteen counties the taxes per farm increased. The percentage taken in taxes increased in all counties. Considered alone, the data of Table 16 do nothing more than confirm the presumption that the value of farm real estate would fall because of the combined onslaught of falling rents and increasing taxes.

Taken together with Table 17, however, the data of Table 16 are more significant. Table 17 shows the value per acre, taxes per acre, and the percentage relationship of these two magnitudes for 1919 and 1924, for the same farms covered in Table 16. In all but two counties, Sacramento of California and Delaware of New York, there was a

[1] *Ibid.*, p. 67.

more or less drastic decline in the value per acre. Reference to Table 16 will show that in Sacramento County there was no decline in rent, but, on the contrary, an increase from \$10.40 to \$17.77 per acre. Though there was a rapid increase of from \$1.36 to \$4.23 in taxes per acre, the

TABLE 16

NET RENT PER ACRE, TAXES PER ACRE ON CASH-RENTED FARMS, AND RELATIONSHIP OF TAXES TO NET RENT, IN THIRTEEN STATES FOR 1919 AND 1924*

State and County	Net Rent per Acre		Taxes per Acre		Taxes as Percentages of Net Rent	
	1919	1924	1919	1924	1919	1924
California: Sacramento	\$10.49	\$17.77	\$1.36	\$4.23	13.0	23.8
Illinois: Macoupin	3.52	3.54	0.64	0.72	18.2	20.3
Indiana: Tipton	9.38	7.42	1.41	2.22	15.0	29.9
Iowa: Union	5.29	4.70	0.84	1.25	15.9	26.6
Iowa: Story	7.28	6.90	1.37	1.38	18.8	26.5
Kansas: Butler	1.73	1.43	0.41	0.53	23.7	37.1
Minnesota: McLeod	3.49	3.74	.85	1.26	24.4	33.7
Nebraska: Wayne	5.74	4.07	.67	0.87	11.7	21.4
New York: Delaware	1.23	1.17	.38	0.63	30.9	53.8
New York: Niagara	2.75	2.47	0.85	1.78	30.9	72.1
Ohio: Franklin	6.30	6.34	1.14	1.99	22.4	31.4
Oregon: Washington	4.34	3.16	1.64	2.17	37.8	68.7
South Dakota: Moody	4.76	4.49	0.77	0.81	16.2	18.0
Utah: Salt Lake	9.81	8.86	2.82	4.82	28.7	54.4
Wisconsin: Dane	3.98	4.04	1.18	1.49	29.6	36.9

* Whitney Coombs, *Taxation of Farm Property*, "Technical Bulletin" No. 172 (Bureau of Agricultural Economics, United States Department of Agriculture, 1929), p. 9. This interesting study has drawn together the results of the work of the several state experiment stations. For details, the bulletin, and the citations therein, should be consulted.

net income per acre, after taxes, increased from \$9.13 to \$13.54, or \$4.41; this helps to explain the increase in value per acre of from \$184.49 to \$225.67, even at a very high rate of capitalization. Though the taxes took a larger percentage of net income before taxes, there was still left for the owner an increased sum per acre. In Delaware County the decrease in rent, from \$1.23 to \$1.17, was small, but the increase in the taxes was substantial. Yet there was a slight increase

in the value per acre. Everywhere, however, there was some, and in many cases a drastic, increase in the percentage of value taken in taxes.

The most interesting inquiry concerns the extent to which taxes were responsible for the fall in land value. Upon this question Table 18 throws some light. It shows the average percentage in each county

TABLE 17

VALUE PER ACRE, TAXES PER ACRE OF CASH-RENTED FARMS, AND RELATIONSHIP OF TAXES TO VALUE IN THIRTEEN STATES FOR 1919 AND 1924*

State and County	Value per Acre		Taxes per Acre		Percentage Relationship of Taxes to Value	
	1919	1924	1919	1924	1919	1924
California: Sacramento.	$184.49	$225.67	$1.36	$4.23	0.74	1.87
Illinois: Macoupin.....	127.58	72.19	0.64	0.72	.50	1.00
Indiana: Tipton.......	238.63	135.18	1.41	2.22	.59	1.64
Iowa: Union..........	165.83	103.08	0.84	1.25	.51	1.21
Iowa: Story..........	296.07	162.71	1.37	1.83	.46	1.12
Kansas: Butler........	57.01	53.15	0.41	0.53	.72	1.00
Minnesota: McLeod...	136.61	108.36	.85	1.26	.62	1.16
Nebraska: Wayne.....	243.31	138.22	.67	0.87	0.28	0.63
New York: Delaware..	128.57	129.27	.38	0.63	1.33	2.15
New York: Niagara....	110.31	110.51	0.85	1.78	0.77	1.61
Ohio: Franklin........	194.67	166.03	1.41	1.99	0.72	1.20
Oregon: Washington...	136.51	105.19	1.64	2.17	1.20	2.06
South Dakota: Moody.	206.39	104.95	0.77	0.81	0.37	0.77
Utah: Salt Lake.......	278.13	310.52	2.82	4.82	1.01	1.55
Wisconsin: Dane......	154.95	101.36	1.18	1.49	0.76	1.47

* Coombs, *Taxation of Farm Property*, p. 52.

that the rent, before taxes and after taxes, was of the value of the land, in 1919 and 1924, covering the same farms covered in Tables 16 and 17. The analysis is somewhat involved, and the conclusion must necessarily be guarded. But, so far as the evidence goes, it supports the hypothesis that the increases in taxes between 1919 and 1924 were rather completely capitalized. The following facts gathered from Tables 16, 17, and 18 are involved:

First, the taxes rose substantially. The average tax per acre in the

median county was 85 cents in 1919, and $1.38 in 1924; the average percentage of rent taken in taxes in the median county was 22.4 in 1919 and 31.4 in 1924; and the average percentage ratio of tax to value in the median county rose from .72 in 1919 to 1.21 in 1924.

Second, Table 18 shows that the returns, except in Sacramento

TABLE 18

PERCENTAGE RENT WAS OF VALUE OF SELECTED CASH-RENTED FARMS IN THIRTEEN STATES, 1919, 1924*

State and County	Before Taxes		After Taxes		Difference between Before and After Taxes	
	1919	1924	1919	1924	1919	1924
California: Sacramento	5.7	7.8	5.0	6.0	0.7	1.8
Illinois: Macoupin	2.8	4.9	2.3	3.9	.5	1.0
Indiana: Tipton	3.9	5.5	3.3	3.9	.6	1.6
Iowa: Union	3.2	4.7	2.7	3.4	.5	1.3
Iowa: Story	2.4	4.2	2.0	3.3	.4	0.9
Kansas: Butler	3.0	2.7	2.3	1.7	.7	1.0
Minnesota: McLeod	2.6	3.5	2.0	2.3	.6	1.2
Nebraska: Wayne	2.4	3.0	2.1	2.3	.3	0.7
New York: Delaware	0.8	0.8	0.6	0.4	.2	0.2
New York: Niagara	2.5	2.2	1.8	0.6	.7	1.8
Ohio: Franklin	3.2	3.8	2.6	2.6	0.6	1.2
Oregon: Washington	3.2	3.0	2.0	0.9	1.2	2.1
South Dakota: Moody	2.3	4.3	1.9	3.5	0.4	0.8
Utah: Salt Lake	3.5	2.8	2.5	1.3	1.0	1.5
Wisconsin: Dane	2.6	4.0	1.8	2.5	0.8	1.5

* Calculated from Tables 16 and 17, *supra*.

County, California, were low. The median percentage which the rent, before taxes, was of value was 2.8 in 1919 and 3.8 in 1924, while the median percentage which the rent, after taxes, was of value was 2.3 in both years. The spread between *rent before taxes* and *rent after taxes*, was, therefore, .5 per cent in 1919 and 1.5 per cent in 1924. While the spread was not the same in all counties, in only one county, Delaware, New York,[1] was the spread not wider in 1924 than in 1919. The particular direction of the spread is significant.

[1] In which the value appears to have been maintained in both years by some factor other than the current rent.

These facts are consistent with the following interpretation: First, 2.3 per cent is the net current return, clear of taxes, and disregarding appreciation, which owners of these farms are willing to take on their investment. Second, when the taxes increase, the capital value is depressed so that the net current return, clear of taxes, remains at 2.3 per cent. Third, since taxes increased and the gross rent decreased, the gross rent, before taxes, expressed as a percentage of value, should, of course, increase, as it did, in fact, from 2.8 per cent to 3.8 per cent. The capital value is the elastic element, being depressed by rising taxes and falling rents, so as to leave the net rent, clear of taxes, at 2.3 per cent for both years.

One more factor needs mention. It is possible that the so-called "beneficial value" of public services, made possible by high taxes, will operate to increase the rent and thus make the capitalization process appear to be less sensitive to changes in net return after taxes. It is probable, in a community where the population demand and receive excellent and expensive public services, that property-owners will be able to command a higher return from their land. It will not be questioned that state and local expenditures, particularly for the two most costly services, schools and roads, have increased, and that the public service of 1924 was superior to that of 1919.

> If the proceeds of taxes are used, for example, to build a road by which easy and rapid access to markets is secured, then the economic yield of the land will be increased just as much as if it had been possible to add increased fertility. Although the establishment of good schools is a less tangible feature than is the creation of better marketing facilities, it, too, will add to the desirability of the land, and will in course of time influence the rents which tenants are willing to pay for land.[1]

Mr. Coombs himself, after a theoretical analysis, concludes that, with rare exceptions, the taxes on farm real estate cannot be shifted, but must be capitalized.[2] And, in commenting upon the relationship of taxes to the value per acre, he says that "it is probable that an interrelationship exists between taxes and value. An increased level of taxation that is expected to be permanent will be reflected in the price a buyer will offer for land since his return will be reduced by the taxes

[1] Coombs, *Taxation of Farm Property*, p. 62.

[2] *Ibid.*, pp. 61–65.

that he has to pay. It is impossible at present, however, to segregate definitely the effects of the capitalization of taxes from the other factors that have caused land to decline in value since 1919."[1]

TABLE 19

VALUE OF FARM PROPERTY, EARNINGS, AND TAXES PER ACRE, 1909–28*

INCOME YEAR†	VALUE PER ACRE, JANUARY 1	RENT‡ PER ACRE		PERCENTAGE WHICH RENT IS OF VALUE OF PROPERTY		PERCENTAGE WHICH TAXES WERE OF VALUE
		Before taxes	After taxes	Before taxes	After taxes	
1909	$45.78	$1.89	$1.63	4.1	3.6	0.5
1910	47.10	3.06	2.79	6.5	5.9	.6
1911	47.66	2.46	2.17	5.2	4.6	.6
1912	48.01	2.29	1.97	4.8	4.1	.7
1913	50.14	2.86	2.51	5.7	5.9	.8
1914	51.23	3.09	2.71	6.0	5.3	.7
1915	52.53	3.44	3.00	6.5	5.7	.8
1916	56.96	4.07	3.58	7.1	6.3	.8
1917	61.21	5.74	5.20	9.4	8.5	.9
1918	68.14	7.84	7.26	11.5	10.7	.8
1919	75.79	9.12	8.46	12.0	11.2	.8
1919–20	83.64	6.17	5.29	8.1	7.0	0.9
1920–21	76.99	1.24	.39	1.5	0.5	1.0
1921–22	67.67	1.74	.83	2.3	1.1	1.2
1922–23	66.75	3.14	2.15	4.6	3.2	1.4
1923–24	65.02	3.21	2.25	4.8	3.4	1.4
1924–25	64.66	3.83	2.87	5.9	4.2	1.7
1925–26	64.62	4.31	3.34	6.7	5.2	1.5
1926–27	63.09	3.69	2.70	5.7	4.2	1.5
1927–28	61.83	3.84	2.84	6.1	4.6	1.5

* From Mabel Newcomer, "The General Property Tax and the Farmer," *Jour. of Pol. Econ.*, XXXVIII, No. 1 (1930), p. 69. Cf. Newcomer's text for further detailed explanations, methods, and sources.

† Calendar year through 1919. Year ending June 30, from 1919–20 on.

‡ Rent is net income less allowance to the farmer of wages for labor; that is, return for property investment.

Because the property tax is so largely unshiftable, it appears burdensome in periods of depression, especially if the depression happens to coincide with rising taxes. But it is not correct to charge the variations

[1] *Ibid.*, p. 53.

in the property tax with causing or contributing to "hard times." The tax is, in fact, a much more constant factor than the rent on farm property, as is shown in Table 19. Thus, in the peak year 1919, when the rent per acre was \$9.12, the rent per acre after taxes amounted to \$8.46, the difference being 66 cents; in 1920–21, the year of lowest rent per acre, the corresponding figures were \$1.24, 39 cents, and 85 cents. While the taxes per acre increased from 26 cents in 1909 to exactly \$1.00 in 1927–28, the rate of increase was fairly steady. Rent, on the other hand, showed marked variations. Taxes are, in general, a reasonably forecastable factor.

IV. PROPERTY TAXES AS AN ELEMENT IN THE TAX SYSTEM

If the foregoing discussion of the capitalization of the unshiftable part of the general property tax presents a substantially true picture, it serves to throw into sharper relief certain questions relating to the property tax as an element in the system. One question is concerned with how large a part of the total tax revenue should be contributed by owners of property in the form of property taxes. Another concerns the problem of temporal variations in the revenue requirements of the state and the variations in the tax burdens on property, as affected by varying yields of property and by varying capital values. A third has to do with the variations in tax rates among the various taxing units, which result largely from the discrepancies in the geographical distribution of taxable property as compared with the distribution of the needs for public services. And, finally, a fourth question relates to the much disputed uniformity rule, and involves the question of whether, once it is granted that a certain percentage of all tax revenue shall be raised on property, that quota should be equally distributed among all classes of property. Upon a satisfactory solution of these four problems depends the retention of the property tax as an equitable fiscal device. But before taking up each of these questions in turn, it is desirable to consider briefly the general principles that underlie or justify the tax.

A. THE PRINCIPLE OF AN ESTABLISHED TAX

The justification of the American property tax is largely one of status. The tax is established; all parties interested have become adjusted to it. The tax official has set up his administrative machinery,

such as it is. The public treasuries have come to rely upon the tax so completely that if a cog slips in the machinery and the assessment or the collection or both are delayed, the situation becomes extremely critical.[1] The taxpayer, by virtue of the process of capitalization, has bought himself free from any calculable, unequal part of the tax, and as for the general or equal or uniform part of it, he bears that in common with others. This argument is particularly applicable to real property taxes. So long as the tax does not increase rapidly either generally or locally, the payers of taxes on real property can have no valid claim, on the ground of justice, for material and sudden relief.

It has, in effect, become an established practice to make the cost of public services of states and local governments a first charge upon the income from property in each particular taxing district, taxes on property having priority over practically all other claims, in good times or bad, regardless of temporal variations in the income. Some local governmental units have had their form and boundaries determined by the consideration of their prospective capacity for functioning as units of administration of the property tax. This is notably true of school districts, which are today the greatest spenders of public funds. It is true perhaps even more of park, drainage, and other improvement districts. No hope has been held out that property taxes would ever decline, and he must have been a reckless taxpayer who would have pinned his faith to such a hope had it been offered. Until recently no alternative source of revenue worth mentioning has been available. The property owner, who bought property on the basis of its yield before taxes, did so at his peril and often to his grief. There have undoubtedly been hundreds of thousands of property owners who purchased property without reckoning adequately for taxes, who have suffered from their neglect.[2] But that is not due to lack of warning.

If in some miraculous way it should be possible to finance any

[1] Consider, for example, the current condition of Cook County, Illinois, and all local governments within the county, resulting from the delay in collections due to the delay in the 1928 reassessment.

[2] They have, however, suffered much more from their failure accurately to forecast income from property before taxes, and in capitalizing temporary, abnormally high incomes. Cf. Newcomer, "The General Property Tax and the Farmer," *Jour. of Pol. Econ.*, XXXVIII, No. 1 (1930), 66, 67.

local government upon its present standard of public service without resort to the use of property taxes, and without imposing taxes or taking such other fiscal measures as would equally depress property values, he would be a poor prophet who could not predict that any resultant relief to local property owners would be temporary, extending only to the present owners. The relief would be capitalized. On the occasion of the first sale after the relief the seller would pocket the capital value of the annual relief. The subsequent owners would be in no better position than before. Owing to the frequency with which property changes hands in the United States, the relief would not last long. The new owners would have to pay, or impute in interest, what the original owners, at the time of the relief, paid in taxes. It is not necessary to contend that there should never be any reduction of taxes on property. What follows shows the contrary. But local property tax relief is a temporary phenomenon.

There does not, in fact, exist such a miraculous fund as was assumed above, from which the revenue lost by the abandonment of the local property tax could be replenished. It would be necessary to impose other taxes, and these taxes might be at least as depressing upon local property values as the property taxes, though this would not be likely with an income tax. Whether they would, in fact, be so depressive would depend upon many things, but chiefly upon the amount it was necessary to raise in other ways than on property, and upon the form and base of the tax. One need not adopt the physiocratic doctrine that all taxes must come to rest on the land, to contend that business taxes, income taxes, or sales taxes, if locally levied and pressed to yield that revenue now derived from local property taxes, might constitute such disadvantage to the locality, or even to the state, as to more than offset the advantage of relief from the property tax. Central levy and administration of such taxes and division of yield would ameliorate but not obviate local inequalities. It is entirely possible, indeed highly probable, that in most states a better apportionment of the tax burden could be effected by heavier use of other taxes than is now the practice. The argument here is designed to show that such a shift in the revenue sources has limits that cannot be removed. Within proper limits, property taxation is rational and defensible.

B. THE BENEFIT PRINCIPLE

The next task is to test roughly whether general property taxes, used as they are to produce 80 per cent or more of the local tax revenue, are justifiable as being proportional to benefit conferred, in proportion to ability to pay, or are so combined with other revenue sources as to involve a minimum of sacrifice in the payment of aggregate taxes of all kinds.

Theoretically, no tax, at least in civilized states, is justifiable except on the ground of public benefit, but this generalization is not adequate as a statement of the test according to the benefit principle. Legally, taxes can be imposed only for public purposes; but whether the benefits are always equal to the sacrifice of the payment of the taxes levied is a question, theoretically, for the theory of consumption, and, practically, for the statesman and the budget-maker. The benefit principle is invoked, as are other theories, to justify or condemn the apportionment of a given amount to be raised among various possible sources, and the apportionment of the quota for each class among the individuals within each class. The principle will not justify the general property tax as defined earlier in this chapter, much less according to the practices under most of the existing state tax systems.

In the first place, benefit from public services is, for much of such service, indefinite and difficult to determine. Much of the service, such as that for schools, is of a nature so personal that only by the widest stretch of the imagination can there be any relation between the benefit and the property of each taxpayer. In the United States, not only has almost the entire cost of elementary and secondary education been made a first charge upon the income from property; but in many states thousands of minute districts have been created and the cost of education in each district has been made a charge upon the income, with resultant reduction in the capital value of the property, a fact that is strikingly notable in districts with relatively low valuations and, therefore, with relatively high tax rates. Education is a service conferring largely a general benefit, although the service may benefit immediately the children living, for the time being, in each district. The general character of the benefit is recognized by educators and legislators to the extent that the schools are subject to state control and regulation, but only in unusual cases and to a limited extent has the central control brought with it central financial support.

A hypothetical example will serve to clarify the relationship. District A has an aggregate tax rate of 50 mills while in an adjoining district, B, the rate is only 25 mills, the difference being due solely to the difference in the school tax rate, which is 35 mills in A and 10 mills in B. The effect of the capitalization process, assuming that no part of the tax is shifted, is that in A the capital value of each $100 of income, which before taxes would be $2,000, would after the tax of 50 mills be $\frac{\$100}{.05+.05}$, or $1,000, while in B it would be $\frac{\$100}{.05+.025}$, or $1,333.33. The aggregate tax in A would be $50 of each $100 yield before taxes, and the capitalized value of the tax, $1,000, while in B the tax would be $33.33, and the amount by which the capital value was depressed

TABLE 20

FULL VALUE OF GENERAL PROPERTY PER SCHOOL CENSUS CHILD IN WISCONSIN, 1927*

	Total County	Rural Part	Urban Part
Largest value per child	$10,527	$12,160	$10,730
Upper quartile (eighteenth county)	6,817	7,444	6,117
Median (thirty-sixth county)	5,166	5,429	5,011
Lower quartile (fifty-fourth county)	4,269	4,337	3,801
Smallest value per child	2,685	2,611	1,652
State average	6,407	5,913	6,798

* From J. Roy Blough, *The Geographical Problem in Wisconsin Taxation*, p. 64.

because of the tax, $666.67. And this difference in effects in A and B is due to differences in concentration of property values, or, more basically, to differences in the localization of income earnings in comparison with the concentration of children to be educated.

Data showing these discrepancies may be gathered from every county in every state, though they are not everywhere equally striking. In Table 20 are shown the discrepancies in the full value of general property per census school child, by counties, for 1927, in Wisconsin. That state will probably rank somewhat above the average in the intensity of its industrial development. Such development will, in general, widen the discrepancies. Wisconsin data would, therefore, probably be nearly typical, as far as intensity of industrial development would affect them. But, striking though the discrepancies are, they are in fact greatly understated. First, because the figures are averages of

counties, and for the rural and the urban part of each county, respectively. Such averaging always conceals deviations of particular items. Second, the table understates what would probably be the typical discrepancies in the concentration of property, because Wisconsin has exceeded the average state in providing other than property tax sources for state and local purposes; this fact presumably would tend to even up the discrepancies.

A double question suggests itself: What are the causes which produce these discrepancies in the concentration of per capita, taxable property, and do they bear any relation to the necessity or propriety for public expenditures?

The answer to the first part must be that the causes are legion in number, but they may be grouped under a few headings. There are, first, the geographical concentrations of natural resources such as coal, ore, waterpower, timber. Next, there are the often originally accidental locations of transportation, manufacturing, and even trading plants. Third, there are the peculiar conditions of the diverse enterprises which determine the ratio in which labor (and hence population) is combined with property in each taxing jurisdiction. A special case thereof is the fact of far-flung business boundaries bearing no relation to political boundaries, as where mercantile area has all its property value located perhaps in one political unit, but acquires its value from business transacted with residents of many other political units within a wide radius. And, finally, there is, of course, a long list of miscellaneous reasons for discrepancies in the per capita taxable property, such as circumstances affecting the desirability of a region as a place of residence. The foregoing recital should readily justify the answer to the second part of the question, that there is no such close relation between the location of taxable property and the needs for public expenditures as to justify the present practice of making substantially the entire cost of locally performed public services a first charge upon local property.

Whatever the cause or causes of the discrepancies between locally taxable property and taxes made necessary by local or merely localized public services, the immediate results are two, namely, wide variation in the percentage of the value of property taken per acre, and still wider variations in the percentages of the annual income taken in taxes.

Table 21 presents by averages for geographic division, and, for the high and low states in each division, the percentages which taxes on farm property were of the value thereof in 1924. That the method of presenting the data by averages for states tends to conceal extreme variations is suggested by a comparison with Table 16 above, where figures by separate counties are given for 1919 and 1924. Table 21 shows variations in the state percentages of from .71 per cent to 2.07 per cent, and the variations for individual counties and smaller taxing units are unquestionably much wider, because the extremes of individual districts disappear in the average for the state.

TABLE 21

TAXES PAID ON FARM LAND AND BUILDINGS OF OWNER-OPERATED FARMS, EXPRESSED AS PERCENTAGES OF VALUE OF LAND AND BUILDINGS, SHOWING AVERAGE PERCENTAGE FOR EACH GEOGRAPHIC DIVISION, AND AVERAGE FOR HIGH AND LOW STATES IN EACH DIVISION, 1924*

Division	Percentage Taxes Were of Value		
	High	Average	Low
New England	2.07	1.70	1.23
Middle Atlantic	1.71	1.56	1.47
East North Central	1.98	1.46	0.88
West North Central	1.62	1.03	0.78
South Atlantic	1.36	0.98	0.71
East South Central	1.99	1.21	1.04
West South Central	1.55	1.06	0.83
Mountain	1.46	1.35	0.99
Pacific	1.39	1.10	1.03
United States	2.07	1.22	0.71

* Coombs, *Taxation of Farm Property*, pp. 57–58. The highest figure, 2.07 per cent, is for New Hampshire, in which state there is considerable marginal land. The lowest figure, .71 per cent, is for Florida. It may be misleading, unless the reader keeps in mind that the year 1924 was prior to the collapse of the land boom of that state.

The variations in the percentages of income from property are, of course, much wider. Table 22 shows the percentages of net returns taken by property taxes, for some one year between 1924 and 1927, for 32 counties or districts in three states. Thus in North Carolina: while in Moore Peach County only 5.1 per cent of the net return before

taxes was taken in property taxes, in Catawba County the percentage taken was 277.8 per cent, and in four of the twelve counties were found deficits ranging from $36 to $117 per farm.

The evidence shows that the benefit principle cannot justify the general property tax. The policy of making nearly all the cost of government a fixed charge upon localized property is not sound. But whether originally justifiable or not, to alter such a policy sharply and suddenly would be largely ineffective, and would provide a bonus to present

TABLE 22

COUNTIES OR DISTRICTS WITHIN SPECIFIED STATES IN WHICH PROPERTY TAXES ON FARM PROPERTY TOOK HIGH AND LOW PERCENTAGES OF NET INCOME, FOR SPECIFIED YEARS*

State	Number of Counties or Districts Studied	Year	High County or District	Low County or District	Percentage	
					High	Low
North Carolina.	12	1927	Catawba	Moore Peach	277.8†	5.1
Pennsylvania...	4	1924–25	Warren	Lancaster	73.0	11.9
Pennsylvania‡.	6	1924–25	Warren	Lancaster	102.2§	16.7
Virginia.......	10	1926	Eastern	Northern	32.8	15.9

* Whitney Coombs, *Taxation of Farm Property*, p. 41.

† Catawba County showed the highest percentage of net return taken in taxes, where there was a positive average net return for all the farms in the county. Of the 12 counties studied, however, three in the Mountain area and one in the Piedmont area showed average deficits per farm of $90, $117, $113, and $36, respectively, before taxes, which amounted to $67, $64, $112, and $57, respectively, per farm.

‡ Owner-operated farms. All others were rented farms.

§ Crawford County showed an average deficit per farm of $33, before taxes which averaged $117 per farm.

property owners who would capitalize the tax relief, leaving future property owners in a position no better than that of the present owners prior to such relief. This is not to say that the present contribution exacted from property is not too high, or that the present share of the revenue from property and consequently the present share of the capital value appropriated by the government is proper. The conclusion of that matter must wait upon further analysis. The benefit principle, however, may be invoked to condemn the indefinite continuation of the existing practice of making the differential local taxes—that part of the local property taxes which exceeds the average, or some level below the average used for reference—a fixed charge upon local property. The public services are largely of a personal character, not close-

ly related to local property values. The benefits are widely diffused. The local political boundaries do not coincide with the business boundaries, which inclose the factors that give value to property.

C. OTHER PRINCIPLES AS TESTS

Ability to pay[1] is the principal test, apart from the test of benefit, usually invoked to rationalize tax collections. There are other principles, such as equality of sacrifice[2] and minimum aggregate sacrifice[3] of tax payments. These tests, while not identical, are closely related. Ability to pay appears to be a very simple concept. But it is meaningless until what constitutes ability and what constitutes a measure have been determined. The equal sacrifice and the minimum sacrifice are special refinements or adaptations of the test of ability to pay.

A special use of the test of ability to pay has developed during the past decade among writers on educational finance, particularly those versed in elementary and secondary school finance. They generally assume, and the state tax systems for the most part justify, the assumption, that the measure of ability of a taxing district to support its public service—more specifically, its schools—is the market value of the property taxable in the district. It is evident that many of these writers are not familiar with the principles of shifting and capitalization, some of them appearing to assume that the value of property is not affected by the amount and rate of taxes levied thereon. They are consequently unaware of the ironic fitness of their test of ability in the only sense in which it can be true, namely, that capital value of property is the measure of the extent to which unshiftable property taxes have not destroyed the capital value of property. The test has a certain justification in that it facilitates the rough computation of the maximum annual amount that can be taken in the form of property taxes for school or other public services, in addition to present taxes, that amount being such an amount as will equal interest at the proper

[1] Cf. D. M. Means, *The Methods of Taxation*, chap. i.

[2] Cf. J. S. Mill, *Principles of Political Economy* (Ashley ed.), pp. 804 ff.

[3] Cf. A. C. Pigou, *A Study in Public Finance*, p. 75. Also T. N. Carver, "The Minimum Sacrifice Theory of Taxation," *Political Science Quarterly*, XIX (1904), 66–79.

rate on the existing capital value.[1] As a test of the propriety of the present property taxes and their allocation, this test of ability is not serviceable.

The application of the test of ability to pay, in its proper form, to the general property tax need not detain us long. Ability to pay taxes, or the sacrifice involved in paying taxes, is related to the entirety of the taxpayer's economic condition, most closely to his clear income. But there is obviously no necessary, or at best only a very remote, relationship between the clear income of a taxpayer, especially if he holds property heavily encumbered with debt, and the property taxes he may be required to pay. There can be only a very remote relationship, if any, between the variations in tax rates in different units and the incomes of the taxpayers in these respective units. The truth is that, in so far as the general property tax possesses the attributes of a quitrent charge, the test of ability to pay has very little significance.

V. THE TAXABLE CAPACITY OF GENERAL PROPERTY

If the foregoing analysis is correct, and if the property tax is, in effect, a fixed charge upon property income, there is need for a change in much of the thinking as well as in some of the writing on property taxation.[2] In the preceding section it has been implied that the property tax, partly because of its quitrent-like nature, should be as stable and as uniform geographically as the fiscal requirements would permit.

European scholars almost invariably condemn not only the general property tax but also any comprehensive system of property taxation. German literature is descriptive of the medieval and more recent experiences of German states and cities with property taxation.[3] J. F. E. Lotz, writing in 1838, said that the property tax seems to have no

[1] It is not intended to imply that these writers would advocate such a step. On the contrary, they are most vigorous, and will probably in the long run be the most effective advocates of a more diversified tax system containing income taxes or other supplementary taxes, and of enlarged taxing areas which would remove many of the present inequalities.

[2] S. E. Leland, in *Bulletin*, XV, 200–203, 234–42, calls attention to this need.

[3] Seligman relies heavily upon their criticisms without emphasizing the fact that the American tax is unique in many ways, but especially in the degree to which it has been made the sole or principal source of revenue, a fact which strengthens his adverse conclusions as to the American tax.

other purpose than to make the rich poorer, and, in the end, to make everybody poor, through taking (of property) without any basis in principle;[1] this is perhaps indicative of the attitude of his time. Leroy-Beaulieu states that rarely has a cruder instrumentality of taxation been devised.[2] Possibly the vigorous opposition to the property tax dates back to its unhappy origin as an emergency levy in times of war. A huge sum had to be raised to meet a desperate, extraordinary demand; and reasons of economy and justice had to be largely ignored. But not all of the antipathy can be traced to this unpopular origin. For several hundred years most, if not all, European states tried to apply taxes on property more or less closely resembling general property taxes. In all cases these taxes have either dissolved into their component parts, consisting of taxes on different classes of property and on income or business enterprise,[3] or they have tended to become supplementary taxes of secondary fiscal importance. Lotz states (1930) that recurrent property taxes are found in Germany, Switzerland, Netherlands, Denmark, Norway, Austria, Hungary, and the United States.[4] The United States is, however, the only country in which the tax is both regularly recurrent and of first-rate fiscal magnitude. In the German Reich, for example, the yield for 1929–30 was 542,200,000 Reichsmark,[5] or about $129,000,000, while property taxes for all purposes in Cook County, Illinois, alone, for 1928 (collected in 1930),

[1] "Eine Vermögenssteuer scheint keinen anderen Zweck zu haben als nur den, durch ihr principienloses Nennen den Reichen ärmer und am Ende alle arm zu machen" (*Handbuch der Staatswirtschaftslehre*, p. 349).

[2] "Rarement, dans la fiscalité moderne, on a inventé d'instrument plus grossier" (*Traité de la Science des Finances* [8th ed.] p. 615). Leroy-Beaulieu directs the charge against the American general property tax. He adduces the customary adverse arguments, and, moreover, states that the tax is unproductive, which is not accurate, although it is true that the rates are high. He proceeds to discuss the Prussian property tax of 1895, an *"impôt complementaire,"* an *"Ergänzungssteuer,"* supplementing the income tax; and of this tax he approves because it is moderate and supplementary.

[3] For a recent treatise of the evolution of a general property tax into its component and some accessory parts of land, buildings, and, business income, see Hermann Reutter, "Die Württembergische Gebäudesteuer," *Finanz-Archiv*, XLVI, 174–224, 632–71. The development of the buildings tax only is fully traced.

[4] *Finanzwissenschaft*, pp. 536–37.

[5] *Wirtschaft und Statistik* (1930), p. 382.

amounted to $181,414,829.54,[1] which is perhaps $40,000,000 below normal collections, because of the delay after the 1927 reassessment.

Contemporary European writers appear, however, to regard general property taxes with less antipathy than did their predecessors. Lotz[2] concedes that a general property tax may be acceptable in two forms, and adds two other forms suggested by Moll: first, a general tax on all property, both producers' and consumers' goods; second, as a form of taxation of funded (unearned) income, imposed only on producers' goods; third, a tax on easily acquired luxuries in times of major changes in wealth and income; and fourth, the nonrecurrent capital levy. Of these, evidently only the first bears any close resemblance to the American general property tax. Lotz then limits the usefulness and propriety of such a tax to the economic status of the Middle Ages, or, at the present time, to the first stage of colonial development. It is noteworthy that German and other European scholars almost invariably regard property taxes as supplementary taxes (*Ergänzungssteuern*) rather than principal taxes (*Hauptsteuern*).

A. IS THE GOVERNMENT'S SHARE INCREASING TOO RAPIDLY?

This inquiry is particularly appropriate at the present time. Taxes in absolute amounts have increased rapidly; this is also true of the per capita taxes, as shown in chapter i. But is there a marked tendency

[1] Statement from Cook County treasurer.

[2] "Trotzdem kann die allgemeine Vermögenssteuer—in mässigen Sätzen erhoben —nicht nur eine brauchbare, sondern eine im Zusammenhange des Steuersystems als gerecht empfundene wiederkehrende Steuer darstellen, und sie gewinnt als solche sichtlich in der Gegenwart an Bedeutung. Erstens als ordentliche Steuer nach dem Masstabe sowohl des werbenden wie des Gebrauchsvermögens, zweitens als eine Form der Besteuerung des fundierten Einkommens, wobei man sich konsequenterweise auf werbendes Vermögen beschränken muss. Wie Moll (*Lehrbuch der Finanzwissenschaft, 1930*, pp. 543 ff.) betont, treten noch weitere Anwendungsfälle nach geschichtlicher Erfahrung hinzu: drittens eine auf gewisse Gebrauchsgegenstände sich erstreckende Vermögenssteuer, welche schnell erworbenes Luxusvermögen in Zeiten starker Einkommens- und Vermögensverschiebungen heranzuziehen sucht. Der vierte von Moll erörterte Fall bezieht sich nicht auf wiederkehrende Vermögensbesteuerung, sondern betrifft den bereits oben erwähnten Gedanken, durch eine starke einmalige Heranziehung der Vermögenssubstanz im Lande eine dauernde Sanierung eines notleidenden Staatshaushalts herbeizuführen" (*Finanzwissenschaft*, 1930, pp. 526–29).

toward increased property taxes, when expressed correctly as a percentage of the true value of the taxable property? Unfortunately, no study has been made to show whether taxes actually are rising as fast as complaints would lead one to believe. The evidence, however, where analysis has been properly made, goes to show that the skyward tendency of true tax rates is greatly exaggerated. A tabulation of the tax rates for a considerable number of cities, adjusted for the unequal as-

TABLE 23

AVERAGE PROPERTY TAX RATES IN CERTAIN CITIES, 1922–30

Year	Number of Cities	Average Total Tax Rate per $1,000 of Assessed Valuation	Average Adjusted Rate per $1,000 of Estimated True Valuation
1922	32	$20.13	$17.86*
1923	177	31.09	24.17*
1924	184	32.16	24.11
1925	215	31.85	24.15
1926	215	32.98	23.66
1927	249	33.16	24.02
1928	237	33.39	24.07
1929	235	33.51	23.95
1930	185	33.93	24.71

* Arithmetic average of tax rates.

sessments prevailing, has been made by Mr. C. E. Rightor covering a period of nearly ten years.[1] The results as shown in Table 23 are the average aggregate rates of property taxes levied for city, school, county, and state purposes on property within the respective cities. The corrections to allow for the degree of undervaluation are based on estimates, because of the absence of actual sales ratios in many cities, and are the best that can be made in the absence of independent appraisals.

If we disregard the low figure of $17.86 for 1922, because of the small number of cities reported (32), it will be seen that the tendency toward increases is not very pronounced. The $24.17 per $1,000 of

[1] For a series of years Mr. Rightor of the Detroit Bureau of Governmental Research has been compiling data showing the actual percentages which the property taxes in the reporting cities were of the taxable property therein. The reported rates have been adjusted to allow for variations in the assessment ratios and other sources of noncomparability. The figures have been published in the December issue of the *National Municipal Review* of each year.

estimated true valuation in 1923 is not much lower than the corresponding figure of $24.71 for 1930. The increase for the 154 cities that were comparable for 1929 and 1930 was in fact only from $24.26 in 1929 to $24.31 in 1930, or only 5 cents.

In 1926 was completed a study covering the expenditures for state purposes in New York during the period 1917–23.[1] The increase was from $59,805,600 to $130,348,500, or 118 per cent, for general purposes; and from $76,910,300 to $136,035,000, or 76 per cent, when capital outlays from the proceeds of funds were included.[2] Upon analysis it was found that of the $70,542,000 increase in expenditures for general purposes, $31,295,000 or 44 per cent, was due to price inflation, and represented no real increase in expenditures, but was ascribable to higher prices and wages which the state, in common with others, had to pay, and was balanced presumably by the decreased sacrifice on the part of the taxpayers in paying. Approximately $9,240,000, or 13 per cent, was due to a change in the policy of financing construction from the proceeds from bonds, that is, to increased reliance upon a pay-as-you-go policy, also involving no real increase in expenditures. Of the balance, $16,000,000 was explained by necessary increases in services and construction due to increasing demand upon state institutions, and to neglect of maintenance and construction during the war years. The remainder, $14,000,000, represents the sum of real increase in public expenditures over which the state could exercise control, a large part of which was accounted for by the assumption by the state of a part of the share of the cost of elementary educational facilities. Mr. Heer concludes[3] that, in view of the fact that during the period the annual income of the people in the state increased by more than $700,000,000, the actual increase in taxes does not seem excessive.

Table 24 shows an index of property taxes on farm real estate, by geographic divisions of the country, for the years 1924–28, the former year being taken as 100. There was an increase each year above the preceding year, the index being 105.1 for 1928. While the population and the property values of the country as a whole perhaps increased sufficiently to warrant a 5 per cent increase in taxes for the country as

[1] Clarence Heer, *The Post-War Expansion of State Expenditures*, published by the National Institute of Public Administration.

[2] *Ibid.*, p. 13.

[3] *Ibid.*, pp. 108–13.

a whole, there was no such increase in the farm population or in the value of farm property. There was, in fact, a decrease in the index of the value of farm real estate of from 130 in 1924 to 117 in 1928.[1] It may be that property taxes are steadily encroaching upon farm real estate values.[2] What is true of farm real estate is probably true in all industries where the use of considerable property is required in pro-

TABLE 24

TAXES ON FARM REAL ESTATE: RELATIVE CHANGE BY GEOGRAPHIC DIVISIONS, 1924–28*

Geographic Division	1924	1925	1926	1927	1928
New England	100	100.9	105.4	108.8	111.1
Middle Atlantic	100	103.5	103.2	104.5	104.7
East North Central	100	99.5	100.3	103.0	102.3
West North Central	100	98.4	99.5	100.8	102.9
South Atlantic	100	103.5	111.1	111.9	113.7
East South Central	100	101.5	103.6	103.4	106.0
West South Central	100	100.1	98.6	103.5	107.0
Mountain	100	103.2	102.3	104.9	106.0
Pacific	100	100.9	102.9	105.6	110.0
United States	100	100.3	101.5	103.6	105.1

* Coombs, *Taxation of Farm Property*, p. 6.

portion to the labor employed. Mr. Coombs is doubtless correct when he says in commenting upon the data of Table 24, that "the assembled data seem to indicate that the period of rapid raise of farm taxes has been passed and that, although a material decline is not to be expected, such increases as may occur in the immediate future will, on the average, be slight."[3] But it is precisely the long-continued "slight" increases that are significant. The test of the propriety of taking a given percentage of income from property in taxes can best be made where property taxes impinge most heavily. For 1927 it is estimated that,

[1] Coombs, *op. cit.*, p. 11.

[2] It may also be that during these years farm property in comparison with other property was too generously capitalized. If so, higher tax indexes were to be expected. Cf. Newcomer, *op. cit.*, pp. 65–69.

[3] Coombs, *op. cit.*, p. 7.

of the $901,000,000 of taxes paid by farmers, 83.8 per cent was in the form of property taxes.[1] Reference to Tables 14 and 15, *supra*, will disclose that of the total of $9.059,590,000 of all federal, state, and local taxes collected in 1927, exactly 50 per cent was in the form of general property taxes. It may or may not be true that farmers pay too much in taxes; but it appears that they pay too much in the form of property taxes.

If the tax rates are increasing, whether slowly or rapidly, the question is inescapable whether there is a limit to the taxes that can be collected on property. Single-taxers insist that any rental value, and consequently any capital value, after taxes, of bare land, is proof that there is an untaxed value, which may be taxed away by raising the tax rate. There is, therefore, no assignable limit to the tax rate on bare land. We may grant the theoretical accuracy of their contention with respect to bare land and such other values as are bound indissolubly to a given locality. If the tax on land is considered as a separate tax, there is no theoretical difficulty in raising the tax rates as high as is desired to approximate infinity when based upon capital value, and 100 per cent when based upon annual value of the rent before taxes. But there is no theory which has specifically demonstrated either the possibility or the impossibility of such taxes on reproducible capital goods. And practical tax experience furnishes no guide here; for there is no record of *recurrent* taxes on producers' goods at such high rates as are here contemplated. Capital levies of earlier times, and such levies as those contemplated in Europe since 1918, it is true, were at high rates, in some cases much higher than the current rates of interest. But such taxes are not comparable with a *recurrent* property tax. They were essentially nonrecurrent transfers to the public treasury of a part of the capital value of things owned.

In contrast with land, reproducible goods must obviously have a value related to their cost of production, so long as they are to be provided through private initiative in an exchange economy. It is probably true that, as shown earlier in this chapter, at present tax rates the property tax on producers' goods must rest largely on the owners of capital in general in the form of a lower interest rate, owing to the relative unresponsiveness of habits and practices of saving. But this

[1] *Ibid.*, p. 1.

unresponsiveness is surely not absolute. Should, for example, the interest rate become negative, through high taxes on producers' goods, saving would undoubtedly be checked. The marginal productivity of capital, before taxes, would increase, and that of labor would decrease. Thus the high taxes on producers' goods would tend to be partly borne by labor in the form of generally lower wages.

The rigidity of the capital value of producers' goods, in contrast with land, would, with increasing true tax rates, result in enormous revenue, assuming that all producers' capital was taxed uniformly at those high rates. But, putting aside for the moment the question of this excess of revenue beyond governmental needs, one may ask how high the tax rates could go. Capital value could not, as a long-run proposition, be taxed away until all wages had been taxed away, that is, until taxes were taking substantially all of the national income. Such a stage would essentially be communistic or socialistic, depending upon the content assigned to those terms, as not only all property income but also substantially all other income would be taxed away. Such a system could not exist unless the state provided, by means of the tax revenue, for the needs of all. It is a corollary of this conclusion that property tax rates could not approach very close to infinity until the general property tax had displaced all other taxes. Since the tax rates of a general property tax are uniform for producers' goods and land, it follows that the economic rent could not be taxed away until all interest and all wages had also been taxed away, because, so long as the tax rate was less than infinity, there would still be some capital value left. If it were desired to tax away land values at an earlier stage in this contemplated development, differentially higher rates for taxes on land would be necessary.

It is, of course, pedantic to talk of such high taxes on property or other items. Reference to Table 15 will disclose that the percentage of the national income taken in all taxes was 11.63, and that taken in the form of property taxes was 5.82. We are a long way from taking 100 per cent of all national income in taxes, and still farther from taking all the income in the form of property taxes. There is, as a matter of fact, a practical limit to the tax, and to the expedient tax rate, very much lower than any theoretical limit. There are two reasons for this, one inhering in the nature of the institution of private property itself and

in the form of the property tax, the other in the availability of alternative sources of revenue, which can be exploited with less sacrifice to the taxpayer than a property tax at high rates, perhaps even at present rates.

B. INSTABILITY OF PROPERTY VALUES

The capital value of property, at least of productive property, will tend to be the capitalized estimated income. Upon that cornerstone rests the theory of the present chapter. It is enough if that proposition holds true in general. But the capitalization process is imperfect, partly because of lack of basic facts, and partly because of ignorance of the process itself. The income realized from property may be much lower than anticipated; it is often higher, but rarely exactly what is anticipated. It is necessary repeatedly to adjust the capital value. On the other hand, the imperfections of the assessment machinery are so great[1] that the assessment cannot speedily and clearly reflect these recapitalizations.

These maladjustments tend to become epidemic. They affect whole communities for a great variety of reasons, for better or for worse. The discovery of a valuable mine, the location of a railroad track, a change in freight rates, a new tariff law, or a World War may increase the actual or anticipated earning capacity of a community beyond all expectations. The newer expectations may not be realized and the resultant mistakes may produce inequalities in the taxes on property that has not been accurately capitalized. On the other hand, failure of crops, the removal of minerals, or a change in trade routes or even in consumers' habits, or a great many other events may cause actual returns to be disappointingly low; and experience shows that such readjustments in capital value are but tardily recognized by the assessor. The other side is, of course, that the taxpayer gets the advantage of unexpected and tardily or never capitalized increases in property productivity. It is, of course, true that we can, by a statistical average of income from property, and a similar average of taxes, for the country as a whole, or for a state, or perhaps even for a county, show that taxes are a relatively constant factor. But the advantages of the untaxed values to some owners do not fully compensate for the taxation of

[1] Cf. especially chaps. xi and xii, *infra*.

fictitious values to other owners. For, apart from the utility of the "saved" tax dollars as compared with that of the tax dollars paid on inaccurately high valuations, the latter leads to certain disruptive processes such as tax delinquency and tax sales, which are bad both for the taxpayer and the treasury.

These discrepancies run, moreover, if not in cycles of alternating booms and depressions, at least variably from time to time for large areas. At times, the market value of property, in so far as it is not tied up without sale, moves at figures below the level that would be established by an accurate capitalization. The burden of what then seems to be taxes on inaccurately high valuations is aggravated by the practice of splitting equities between mortgagor and mortgagee. The requirements of the treasury must be met and the property owner must take up the slack. The public treasury is properly and necessarily the preferred claimant to its share of earnings from property, or even of the capital value, if the earnings do not suffice. That, at least, is inevitable in an ad valorem property tax. The nominal owner takes all the loss of reduced earnings, or deficits, but he must meet the fixed charges of taxes and interest. Often, on such occasions, when the taxes are high and the property heavily encumbered, it is not worth while to pay both taxes and interest. Tax sales and foreclosures in-

TABLE 25

TAXES ON FARM PROPERTY OF OWNER-OPERATED FARMS, EXPRESSED AS PERCENTAGES OF NET RETURN, BY GEOGRAPHIC DIVISIONS, 1922–27*

Geographic Division	1922	1923	1924	1925	1926	1927
North Atlantic........	34.2	30.8	32.4	19.1	25.0	20.0
South Atlantic........	15.9	22.4	21.0	22.0	24.2	14.9
East North Central....	32.1	35.5	27.7	22.2	26.4	29.4
West North Central....	24.0	35.3	22.4	19.6	26.9	19.0
South Central.........	16.6	23.0	14.6	18.3	14.5	14.0
Western..............	44.6	33.0	24.5	17.2	19.9	14.9
United States.....	26.0	31.4	22.0	19.7	22.3	18.5

* Coombs, *Taxation of Farm Property*, p. 35. "Net return is average gross cash receipts from sales plus the value of food produced and used on the farm, plus change in inventory of personal property, minus average current cash expenses, minus the estimated value of family labor, including that of the owner."

crease in frequency. The nonpayment of taxes in turn may embarrass the treasury and necessitate higher rates on the property of those who actually pay, to make up for the slump in collections and the reduced valuations.[1]

TABLE 26

HIGH AND LOW PERCENTAGES TAKEN BY PROPERTY TAXES OF NET RENT IN STATES INVESTIGATED, IN SPECIFIED YEARS*

State	Period Studied	Year of High Percentage	Year of Low Percentage	Percentage High	Percentage Low
Arkansas	1921–25	1923	1922	20.0	16.5
Arkansas†	1922–26	1923	1926	22.5	10.9
Colorado	1919–26	1923	1919	37.8	22.7
Indiana	1919–23	1922	1919	43.1	12.0
Iowa (cash-rented)‡	1913–27	1923	1913	36.1	13.7
Iowa (share-rented)‡	1913–26	1923	1913	34.3	6.6
Iowa†‡	1913–26	1921	1916	52.0	3.9§
Massachusetts, Western† ||	1922–23	1922	1923	31.9	19.6
Massachusetts, Other†	1920–23	1921	1923	137.6	16.2
Michigan	1919–26	1921	1919	70.5	29.9
Missouri, Northwestern	1913–22	1922	1918	17.1	9.3
Missouri, Other¶	1919–23	1921	1919	22.0	10.0
New Jersey	1925–27	1925	1927	54.3	48.1
North Dakota	1919–24	1921	1919	60.0	14.8
Ohio	1913–27	1922	1914	41.0	21.4
South Dakota	1919–26	1921	1919	54.6	16.1
Washington	1924–26	1924	1925	32.0	26.7

* Coombs, *Taxation of Farm Property*, pp. 14–28, 38, 40.
† Owner-operated farms. All others are rented farms.
‡ Not all the years during the period covered.
§ Sample rather small; but the weighted average for the years 1913–16, was 4.9 per cent.
|| Middlesex and Berkshire counties.
¶ Gentry, Boone, Audrian, and New Madrid counties.

The variability of property net returns, and consequently of the percentages of the net returns which are taken by property taxes is demonstrated in Table 25, which shows the percentages of net returns from selected farm real estate by geographic divisions for the years

[1] Cf. chap. xiii, *infra*.

1922–27. The high percentages of 26.0 for 1922 and 31.4 for 1923, contrast sharply with that of 18.5 for 1927. There were no great variations in the taxes during these years, so that the differences in percentages are primarily ascribable to variations in the net returns. The variability for the individual farm owners was of course much greater.

The variability is still more clearly seen from Table 26, which shows the years of high and low percentages of net returns from farm real estate taken in taxes in all counties studied in each state and also the average high and low percentages for the state. Invariably, where the investigation dates back to these years, the high percentage figure occurs in 1921, 1922, or 1923. In states where the investigation dates back sufficiently, the low percentages occur prior to 1921, as was to be expected in view of the general upward trend of property taxes. But in all cases, the peak percentages in 1921, 1922, or 1923, were succeeded by lower percentages in later years. In Iowa in 1916 the percentage was only 3.9, while in 1921 it was 52.0 for owner-operated farms. In Middlesex and Berkshire counties in Massachusetts, the percentage was 137.6 in 1921, and only 16.2 in 1923. It is to be remembered that the percentages are averages for all the counties in each study. The variations within each county, and, still more so, the variations within each smaller taxing district would be much wider.

All the uncertainties affecting current and anticipated income from property make the capitalization a very uncertain procedure. It is of special significance that most if not all of these difficulties become more serious in proportion as the taxes become high and consequently the capital value of property low.[1] They are further aggravated if, with

[1] That there is any relationship between the tax rates and the administration of the tax and its effects, is not always realized. Bullock, in his paper on the general property tax in Switzerland, cited above, points out this relationship. The warning is of greater significance today; for in the two decades since the paper was prepared property taxes have greatly increased. After pointing out that the Swiss cantons and municipalities have various sources of revenue, which render heavy property taxes unnecessary, and that hence the Swiss property taxes generally are relatively moderate, he states: "This fact I consider of capital importance. As will later appear, it goes far toward explaining the further fact that in Switzerland the property tax has not in general produced such intolerable conditions as attend its operation in the United States."

It is noteworthy that, even so, the Swiss cantons have recently found it proper to utilize alternative sources to a greater degree. Thus the canton Zürich in 1917,

difficulties of the sort just indicated, there happens to be under way some expensive public improvement project, such as school buildings, streets, or highways, requiring heavy taxes or the issue of bonds with heavy taxes later on.

It is possible, however, to charge faults against the general property tax with which it is not properly chargeable. Not every circumstance affecting the rate of earnings of property, whether current or temporary, should be regarded as rendering the property tax objectionable merely because it takes a differential percentage of net income before taxes. "Of two landowners, one may apply improved processes and enjoy a large product; the other, although on equally valuable land, may suffer climatic reverses and produce far less."[1] Doubtless the impairment of revenue due to "climatic reverses" should be allowed for, as it would be in an income tax, but as it cannot be in a property tax. But there surely is no reason why the landowner who "enjoys a large product" by reason of his use of "improved processes" should on that account pay higher property taxes any more than he should pay higher freight rates. It is well that personal inefficiency in the use of land and capital is not a reason for relief from property taxes, especially since such inefficiency is accorded preferential treatment under an income tax. Likewise, the general property tax is criticized because its uniform rate will make the tax lighter, in terms of earnings, on such property as is used in risky ventures and, therefore, requires a high capitalization rate compared with other property. To the extent that such

---

after several years of serious deficits, "reformed" its tax system, making heavier use of the income tax, with a shift in the relative yields from property taxes and from income taxes as follows:*

Year	Revenue (in Francs)			
	Property Taxes	Income Taxes	Back Taxes, etc. (Undistributed)	Total
1916	6,412,758	7,765,020	1,264,083	15,442,061
1918	7,247,893	11,676,419	581,348	19,505,660
1919	7,277,910	29,802,036	338,153	37,418,099
1929	9,129,956	30,040,927	285,907	39,456,790

* From Georg Schanz, "Die neue Steuerreform im Kanton Zürich," *Finanz-Archiv*, XLVI, 147.

[1] E. R. A. Seligman, *Essays in Taxation*, p. 57.

variations in the capitalization rates are known, they do not make variations in the percentage of earnings taken in property taxes objectionable. Through adjustment of commodity prices and capital value of land and producers' goods, the present owners will tend to be shorn of any differential earnings except such as flow from the risk of the enterprise. The property tax is not an income tax. The objectionable inequalities in the percentages of earnings taken in property taxes are those that defy reckoning for capitalization purposes and those due to high variations in true tax rates among taxing districts. These inequalities tend to become greater with increasing economic complexity, and they become more serious, as shown above, as the property tax becomes heavier. They, therefore, constitute an argument against the too exclusive use of property taxes.

C. AVAILABLE ALTERNATIVES

Unless there are alternatives in the form of other sources of revenue, there is little hope for reducing property tax rates and keeping them stable. But such alternative sources of revenue are available, though the states are but tardily availing themselves of them, in the form of taxes on income, possibly on sales, and in the more careful utilization of fees and miscellaneous revenues.

In colonial days, especially in New England, the legislatures sought to base taxes upon general ability to pay. In their judgment, property was only one element, ordinary persons represented by the poll, and persons with special capacity represented by the "faculty" element being the two others.[1] The two latter "abilities" fell into relative disuse, perhaps partly because at that time they were not necessary to a fair distribution. The colonies were in such a primitive stage that a suitable single-basis system of taxation might work tolerably.

There are no such states today. Property is unequally distributed; and a large part of the national income is derived from activities not

[1] It must not be assumed that such composite taxes whose base contained an element of ordinary or special labor incomes, and other specified sources of income given a capital value by some form of computation, have not occurred elsewhere. Medieval European property taxes sometimes were of this sort, and the same is true of some of the more recent adaptations, though it is not a general practice today. Cf. citations by Seligman, *Essays in Taxation*, p. 39, of the works of Zeumer, Heidenhain, and Moll. Cf. also Seligman's own presentation, *ibid.*, pp. 32–56.

closely connected with the use or ownership of property. The size of that share of the national income derived in ways not closely related to the use of property is not easy to determine. But of the $26,208,560,-568 of income reported as subject to the federal income tax in 1927, $10,218,449,780, or nearly 40 per cent, consisted of wages and salaries,[1] which is of course very much less than the total income from personal efforts. Almost every class of income, other than wages and salaries reported, contains large portions not related to property use.

In the main the classes not adequately reached by the property tax belong to two groups: One group consists of those who derive considerable income from investments or from personal exertion, in the form of wages or salaries or from business enterprises requiring little capital. The second group consists of those who have small incomes, chiefly from labor. The former can be reached on the income basis, the latter through selective sales taxes or through low-bracket income taxes. They possess capacity for payment of taxes not tapped where the property tax is the sole, or almost the sole, source of revenue.

There are numerous reasons why these two groups, rapidly increasing in number, should be taxed, and should know that they are being taxed. There is a danger in extending the franchise to all, and limiting the tax payments to a relatively few citizens. Taxation of these groups would exert a wholesome influence upon voting for bonds and other projects requiring taxes currently or later to pay interest and principal.[2] Some states recognize this weakness of the present system, as is shown by laws restricting voting upon bond issues. An additional, perhaps a better, safeguard would be a more inclusive revenue system.

This is not the place to discuss the extent to which and the manner in which the several states have tapped other revenue sources. Recent studies of state income taxation describe the laws, cite the revenue, and discuss in detail the results of these experiments.[3] Nor is this the place to enter the lists against those opponents of the state income tax,

[1] Bureau of Internal Revenue, *Income Statistics, 1927*, p. 30.

[2] Cf. A. A. Young, "Personal or Impersonal Taxation," *Proceedings*, IX (1915), 336–45.

[3] Cf. *State Income Taxes* (2 vols.), National Industrial Conference Board. Also *State Income Taxation* by Professor Roy G. Blakey, Publication No. 31 of the League of Minnesota Municipalities.

and possibly the opponents of selective sales taxes, who argue that such taxes will ruin the state by depressing business and property values. It would indeed be possible to work these other sources too hard, particularly if taxes on them were introduced abruptly, to the detriment even of taxpaying property owners. But the experience of the states shows, since Wisconsin in 1911 demonstrated that a state income tax is capable of being satisfactorily administered and of yielding sufficient revenue to produce real relief to property owners, that such a tax can be utilized without harm to the industry of the state.[1] Sales taxes offer, from present appearances, less hope for substantial relief from excessive property taxes; yet from that source, as well as from income taxes, revenue can be obtained to help remove the strongest objection to the property tax, namely, its wide territorial variations.[2] Obviously, not all of the states have the same reason—a larger yield of revenue—for adopting at once such other taxes. The industrially developed states have greater need of additional revenue, and for a broadening and diversification of their tax bases to include other taxes supplementary to the tax on property. But the question, properly enough, is under consideration in practically every state.

[1] Cf. G. L. Lefler, *Wisconsin Industry and the Wisconsin Tax System*, published as Bulletin No. 1 of the Bureau of Business and Economic Research of the University of Wisconsin.

[2] Cf. J. P. Jensen, "General versus Selective Sales Taxes," *Proceedings*, XXII (1929), 403–12.

National Industrial Conference Board, *General Sales or Turnover Taxation*.

CHAPTER IV

EXISTING DEFINITIONS OF TAXABLE PROPERTY

When we examine existing property tax systems, it becomes at once apparent that in no one state does the law establish a tax base conforming even approximately to either of those just discussed. Taxable property consists neither of all equities nor of all tangible objects plus nonrepresentative intangibles, but, in every state, of a unique combination of these two bases. Many of the differences in the content of the bases reflect differences in the economic and political conditions of the respective states. On the other hand, many of the provisions would not be justifiable anywhere.

For purposes of comparison, the bases upon which property taxes are levied in the different states are best described in the answers to three questions: (1) Whose property is taxable, or to whom is property taxable? (2) Where is its taxable situs? and (3) What is the taxable status of each of the principal classes of intangible property? To have a complete definition of taxable property, it is necessary to consider what property is exempt; this will be done in chapter v.

I. CONSTITUTIONAL AND STATUTORY REQUIREMENTS

American state legislators appear to have been dominated by the conviction that all property, less such exemptions as might be authorized, should be taxed. Their zeal often exceeded their judgment, for they did not always understand the difficulties of defining property and of reaching it all equitably. There are still many persons in responsible positions[1] who argue that the general property tax, reaching all proper-

[1] Mr. Noah Bowman, who, by reason of a temporary setback of the Republican party, was for two years chairman of the Kansas Tax Commission, in 1924 astonished the delegates to the Seventeenth National Tax Conference by saying that the Kansas general property tax was "theoretically perfect, and all that prevents it from being absolutely and practically so is our inability to legislate good conscience in and greed out of the officials who administer the same" (*Proceedings*, XVII [1924], 48–54).

ty and treating it all alike, is not only correct in principle but also capable of honest and effective administration. While no careful student today holds this view, legislators in the past did hold it. For proof, one need only note with what meticulous care constitutions and statutes have been designed to reach all property.

The law may at one time provide that all persons shall pay taxes; at other times, that all property shall be taxed; frequently both provisions occur. It was evidently not always clear whether the general property tax was a tax on all persons according to the value of their property or a tax on all property, regardless of ownership. In fact, it is a combination of both. It is less frequently required that all persons must pay taxes than that all property must be taxed. There is also considerable variety in the form taken by these provisions requiring universality.

The Massachusetts constitution recites that power and authority "are hereby given and granted to the said General Court . . . . to impose and levy proportional and reasonable assessments, rates, and taxes upon all the inhabitants of, and persons resident, and estates lying, within the said commonwealth."[1] The New Hampshire constitution[2] repeats this provision almost verbatim. It is typical of the provisions found in the constitutions of the older commonwealths. Some of them explain why universality is prescribed. Thus the Declaration of Rights of Maryland states that "Every person ought to contribute his proportion of public taxes for the support of the government, according to his actual worth in real or personal property."

As the constitutions grew longer and more elaborate, in the attempt of the electorate to limit the powers of the legislature, the broad provisions of the colonial documents were replaced with more specific provisions relating to the taxation of persons and property. But the specific provisions seldom assume the form of a requirement to tax all persons. And when such is their form, it appears to be rather accidental, so strong has become the fiction that it is property, not persons, that is taxed.

There is, for example, a group of states whose constitutions have specifically required all persons to be taxed. In Illinois it was required that the general assembly "shall provide such revenue as may be needful by levying a tax by valuation, so that *every person and corpora-*

[1] Part II, chap. i, Art. iv. [2] Art. v.

tion shall pay a tax in proportion to the value of his, her, or its property."[1] Equivalent provisions were inserted in the constitutions of Idaho,[2] Nebraska,[3] Utah,[4] and Washington.[5] Nebraska changed the term "property" to read "property and franchises," and in 1920 permitted limited classification.

But if the constitutions seldom state specifically that all persons, natural and corporate, shall be taxed, such is generally implied or stated in other douments, statutory or judicial. Thus, it is usually provided that all residents shall either list or aid in listing their property for taxation.

More often the constitutions require all property to be taxed, the requirement frequently appearing in more than one form in the same document. In some cases the legislature is given power to tax all property. The constitution of New Hampshire, for example, states that "full power and authority are hereby given and granted to the general court to impose and to levy proportional and reasonable assessments, rates, and taxes . . . . upon all estates."[6] This is very general and appears to be permissive only. It is typical of the provisions in the older documents. Recent constitutions are much more specific and sometimes mandatory.

In the Arizona constitution we read that ". . . . all property . . . . shall be subject to taxation."[7] Similarly, in Wyoming, it is required that "all property . . . . shall be assessed for taxation."[8] California,[9] in a slightly different form, provides that "all property . . . . shall be taxed." This is the more common form, being found in the constitutions of Texas,[10] Utah,[11] Virginia,[12] Washington,[13] and, with more or less significant modifications, in those of a number of other states. But in all it is clear that universality was intended. In sundry other ways the inclusion of all nonexempt property is hedged about, indicating a well-founded belief on the part of the electorate that any loophole, through

[1] Art. ix, sec. 1.

[2] Art. vii, sec. 2.

[3] Art. viii, sec. 1.

[4] Art. xiii, sec. 3. Amended 1930.

[5] Art. vii, sec. 2.

[6] Art. v.

[7] Art. ix, sec. 2.

[8] Art. xv, sec. 2.

[9] Art. xiii, sec. 1.

[10] Art. viii, sec. 1.

[11] Art. xiii, sec. 2.

[12] Art. xiii, sec. 168.

[13] Art. vii, sec. 1.

which evasion can be practiced, will be discovered. For example, constitutional provisions frequently require that certain property, usually that of corporations, shall not escape. Thus in Arkansas it is ordered that "the power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the state may be a party."[1] Colorado,[2] Georgia,[3] Louisiana,[4] Pennsylvania,[5] Texas,[6] and Washington,[7] accomplish the same purpose, although in some cases with different phraseology. In a few instances, corporations of a special kind are mentioned. Thus in Kansas, until 1924, the legislature was required to provide for taxing "the notes and bills discounted and purchased, moneys loaned and other property, effects and dues of every description (without deduction) of all banks . . . . , so that all property employed in banking shall always bear a burden of taxation equal to that imposed upon individuals."[8] This provision was borrowed word for word, from the constitution of Ohio,[9] where it was effective until 1929. It was also copied verbatim in the South Dakota constitution,[10] but was there abolished in 1918.

Somewhat similar is the provision found in Illinois, and in a few other states, to the effect that no commutation shall be "authorized in any form whatever."[11] Illinois and other states have suffered from giving tax exemption or tax commutation to corporations, chiefly railroads, especially during the decade prior to the enactment of the present constitution of 1870. The original line of the Illinois Central Railroad is now operating in Illinois under a charter of this nature. The universality and uniformity features of the property taxes during the past few decades in the United States are in part a heritage from the attempts to compel these corporations to bear their fair share of taxation. These features have persisted even though the situation that called them into existence has disappeared.

A slightly different provision is found in the Colorado constitution, to the effect that "no county, city, or town, or other municipal corpora-

[1] Art. xvi, sec. 7.

[2] Art. x, sec. 9.

[3] Art. vii, para. 5.

[4] Art. x, sec. 1.

[5] Art. ix, sec. 3.

[6] Art. viii, sec. 10.

[7] Art. vii, sec. 4.

[8] Art. xi, sec. 2.

[9] Art. xii, sec. 3.

[10] Art. xi, sec. 4.

[11] Art. ix, sec. 6.

tion, the inhabitants thereof, nor the property therein shall be released or discharged from their or its proportionate share of taxes levied for state purposes."[1] To an equivalent clause, the constitution of Texas adds the proviso, "unless in case of great public calamity in any such county, city, or town, when such release may be made by a vote of two-thirds of each house of the legislature."[2] Such release from taxes, whether before or after their imposition, is not commonly granted in the constitutions, but occurs, on occasion, in more or less unofficial ways. It was a common practice for colonial legislatures to exempt, from their quota of colonial taxes, towns which had been ravaged by Indians or had otherwise suffered from emergencies.

In so far as the property taxes fall upon real estate there is other evidence from many sources showing the tax to be on property, a tax *in rem*, rather than on the person, *in personam*. Real property is always taxable in the taxing district of its location. The rate of the tax is the rate of the district of situs, and not that of the residence of the owner. The laws governing the assessment and collection are those of the state of situs; and non-resident taxpayers must be familiar with those laws. "The land stands accountable to the demands of the state, and the owners are charged with the laws affecting it, and the means by which these demands may be enforced."[3] That the property is assessed to the legal, not to the equitable, owners, is a rule that has admitted exceptions—where, for example, in case of mortgaged real estate, the mortgagor and the mortgagee were assessed each on his equity. But in such cases the mortgagor almost invariably contracts to pay the tax on the mortgage. Ownership of real property being a matter of public record, the assessors almost invariably obtain their information as to the person against whom realty is to be assessed from the public records; and the owner is not often called upon to give evidence as to the value. The taxable status of real property, except where it is exempt on account of the purpose for which it is used, is determined impersonally, not only without reference to the economic condition of the taxpayer, but also usually without involving the taxpayer in the assessment procedure. And if the tax on real property becomes delinquent, the lien for taxes runs against the real property only, and the lien for the tax on each specific parcel runs often against that parcel only.

[1] Art. x, sec. 8. [2] Art. viii, sec. 10.

[3] *Ballard* v. *Hunter*, 204 U.S. 241, 254–57, and cases there cited.

Taxes on tangible personal property are also largely impersonal. The owner or his representative is usually called upon to assist in the assessment, but deductions for debts, or any other adjustment according to the taxpayer's economic situation, are rarely allowed. And the lien is not so severely restricted. Even so, the property tax on tangible personalty is overwhelmingly impersonal. In the taxation of intangible personalty there is, as will appear presently, much more of the personal element.

II. THE TAXABLE SITUS

The practices in the different states with reference to the tax liability of different classes of property may best be discussed in the light of a general classification of property. Property is usually classified as either real or personal. Real property is taxable only in the tax district in which it is located. Less uniformly, and with increasingly numerous and important exceptions, personal property is taxable in the district of the owner's residence. The old rule that personalty follows the owner, *mobilia sequuntur personam*, was long ago found inadequate and has been modified. But this modification, though made to secure a better situs in particular cases, has itself given rise to vexing problems, because situs can sometimes be established on several grounds; this often leads to multiple taxation, but probably oftener to evasion or avoidance.

Real property, as far as the physical objects go, includes land and anything permanently attached to it.[1] Most of the states have by statutory enactments defined property that is to be taxed as realty within their own jurisdiction. The definition of any one state does not, however, bind any other state, which may and often does adopt a different definition.

It is frequently not so much a question of whether or not a given parcel of property is realty, as of determining to what extent it is such. Ownership of a parcel of real property involves a large number of rights; and the parcel may be realty with respect to some and not with respect to other rights. If the land and its fixtures are held in fee simple, this interest in the property is real estate. If the holder owns only a life estate, such an estate, although realty in law, is obviously worth less

[1] See Edmund F. Trabue, *Proceedings, 1914*, pp. 242–61, for an analysis of situs cases for taxation.

in the market than an estate in fee simple. If allowance is made for this diminution in the value of the property, a part of the property obviously avoids taxation, unless the other part of the interest is taxed. Reversions, remainders, the rights of dower or curtesy of wife or husband, respectively, easements, and possibly other less common estates are real estate in common law and thus have a definite taxable situs at the location of the property they represent. They are taxable as real estate only at that place, and, so far, there is no multiple taxation. But if the holder of one of these realty rights could not be found or taxed, the property would to that extent escape taxation, unless it could be made taxable to such owners of interests in the goods as can be found.

A group of interests in land and improvements are regarded as of less dignity in law and are said to be personal property. The rights and interests of the leaseholder and of the mortgagee are usually of this type. Leaseholds and mortgages, with the interests they represent, are generally personal property, always so under the common law and generally so under statutory provisions. The importance of this distinction between realty and personalty is that the latter is, under the present confusing status of constitutional tax law, taxable either at the residence of the owner or at the location of the property, if it can be said to have any definite location, or possibly in both places, especially if one of the tax claims happens to arise outside the state of its location.

A few of the states have not attempted to modify the common-law rules covering the definition of realty. Others have made definitions, which neither add to nor detract from the common law definition, either by enumerating such items as would be comprehended in the common-law definition or by making a general statement which must be referred to the common law for interpretation. The statutes of Alabama provide that real estate shall be such as will pass to a vendee by conveyance of sale. But the common practice is to enact special definitions which facilitate tax administration and which enlarge or diminish at will the common-law category of real estate, usually with the object of enlarging the tax base in the state, and with scant regard or none for the tax base in other states or for the property that may thereby be made subject to multiple taxation.

Where the definitions are made in terms of types of property that

are or are not to be regarded as realty, the tendency is probably to enlarge the scope of personalty, for the obvious reason that to do so gives the administration a freer hand in taxing property. The principal property of this type is that of various public utility corporations. Arizona thus declares the following to be personal property: Gas, oil, and water mains, pipes, conduits, and subways, but not railroad tracks. So also tracks, roads, and bridges of street railways, turnpike and bridge companies, and apparatus of telephone and telegraph companies. California declares telephone and telegraph lines to be personalty. Kansas treats certain real property of railroads as personalty, and also all property owned, leased, used or acquired, or employed by any railroad company or corporation situated on the right of way within the state. Michigan declares to be personalty the mains, pipes, and wires of electric, natural gas, coke and other companies; so also all tombs and vaults for hire, and stock of corporations owning them. South Dakota has a similar provision. Montana assesses as personalty gas and water mains and pipes laid in the street; also tracks of street railroads and bridges. Ohio orders that roadbed, water and wood stations, and such other fixed property as is necessary for the daily running of railroads be classed as personal property. Washington comprehensively declares all operating property of street railways, real or personal, to be personalty for purposes of taxation; so also all gas and water mains laid in streets, alleys, and roads. Wisconsin very extensively transforms the property of public utility corporations into personalty.

On the other hand, if realty is defined in terms of the elements of ownership, a tendency appears to enlarge the category of realty at the expense of personalty. As observed above, mortgages are for the most part personalty under the common law. Six states, California, Colorado, Massachusetts, Nebraska, Nevada, and Wisconsin, either expressly or by implication have taxed mortgages as interest in real estate, so that they were taxable only where the realty on which they were based was located,[1] although the payment might usually be made either by the mortgagor or the mortgagee. This applies to domestic mortgages

[1] This restriction applies of course only to the state so defining mortgages. There is nothing to hinder any other state from defining these same mortgages as personal estate and taxing them as such, to the holder, if held in such other state.

only, foreign mortgages being, there as generally elsewhere, taxable as other representative property in the respective states.[1] California excepts from this provision mortgages on railways and other public utilities, which are otherwise taxed. In Nevada, railroad bond mortgages are similarly treated.

Public lands to which the title has not yet been completed, if the title still vests in the state or in the United States,[2] remain to be discussed. If the title vests in the state the case is quite simple. The property can be regarded as either personalty or realty, and it is, in fact, indifferently classified as either, the law presumably conferring that character upon the property which will tend best to conserve or expand the state's tax base. If the title still vests in the United States, the problem is often quite perplexing. As federal property, the land cannot be taxed by the state. For that reason, settlers on homestead lands, or persons holding rights to, and interests in, minerals, timber, and improvements on land nominally vested in the United States, have often delayed completing the title, thereby avoiding property taxation for all purposes, even though the remaining act of completing the title is merely a formality. This practice has considerably increased the rate of taxation for those who have already "proved up," and has diminished the revenue of the district, often blocking needed public improvements. Protracted delay in obtaining title, and, therefore, in becoming liable for taxes, constitutes a problem of considerable importance in new regions, where corporations hold rights, for example, to cut timber on the lands of the United States, or otherwise exploit natural resources.

To remedy at least a part of the resulting unfairness, many states,[3] especially those settled under the provisions of the homestead acts, have declared certain interests to be personal property that would otherwise remain realty. California, Montana, and Utah regard stand-

[1] That is, as personalty. The law here has reference to the mortgage as a debt due the mortgagee or holder, and ignores the aspect of it as an interest in real property, which, of course, it could not tax since it is located in another state.

[2] For a recent discussion of this problem, see H. L. Lutz, "Taxation of the Public Lands," *Proceedings*, *1927*, pp. 202–47.

[3] Arkansas, Indiana, Michigan, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Washington, and Wisconsin.

ing timber owned by individuals or by corporations, with title vested in the United States, as realty.

At any time there is a continual process of transformation from realty into personalty and vice versa. Timber, minerals, and growing crops, regarded as realty while developing, become personalty by being severed. On the other hand, personalty such as lumber, steel, concrete, etc., becomes real estate by being made a part of a building. While the transformation is going on, the status is at least uncertain; and there is opportunity for evasion, on the one hand, and unfair taxation, on the other. Specialties, such as mines, minerals in the mine, quarries, fossils, fields of peat and marl, shore rights and privileges, and growing trees, unless owned or leased separately, are regularly counted as realty. Their products, as soon as severed, become personalty.

To the general rule that real property is taxable and listable, or returnable for taxation, in the state where it is situated, there are now no exceptions. For no state can, under our federal constitution, "import" property for taxation from another state. And within each state real property is everywhere taxable and listable where it is located, or where, in case of railroad and other centrally assessed property, it may be constructively located. But this rule was not always readily acceptable.

As early as 1636 it was enacted in Massachusetts that "all men that live in this jurisdiction are to be rated only in the place where they live to all public rates and these that live not in this jurisdiction are to have their goods, stocks, and lands rated where they are in being."[1] That requirement attempted to tax residents of the colony on their property regardless of its location, and nonresidents upon such property as they owned in Massachusetts. In 1639 it was further attempted by the General Court to tax residents of Massachusetts on estates in England "for what they are worth"; this practice, however, was abandoned in 1641. This conflict was one of the unsettled problems inherited from England.[2]

[1] Douglas, *Financial History of Massachusetts*, p. 18.

[2] The English law of 1601 specified two principal taxpayers in each parish, namely, "every inhabitant," and every "occupier of lands, houses," etc. Stated in the present American variant of the English language it meant that every resident of a parish was to be "rated" in the parish of his residence, presumably according to his

Real property has often been listable, and sometimes taxable, in another local jurisdiction than that of its location within the same state. Thus in Texas up to 1840 all property was taxable in the jurisdiction of the owner. In that year, the owner of property in another county was required to send a sworn list of such property to the assessor in the county of its location. This did not work well and was abandoned, with a return to the old practice in 1841.[1] Until 1876 varying degrees of latitude were allowed. Thus in 1860 nonresidents of the state might render property for assessment in any county, but the taxes accrued to the county of location. This was a matter of convenience, especially for railroad, canal, and colonization companies. In 1869 real property could be rendered either in the county of its location or in that of the owner's residence, but personal property in the county of residence only. Finally, in the constitution of 1876 it was required to render all property at its situs, but the legislature might by a two-thirds enactment make it taxable elsewhere. The legislature and the courts have fixed the liability of real property and of tangible personal property at its location and of intangibles at the domicile of the owner.[2]

There is, however, still considerable difference among the states in the line of cleavage between personal property listable and taxable at the owner's domicile and that listable and taxable at its location. The general movement, which has been in the direction of increasing that part which is taxable at the location, is well stated by Justice Gray:

> The old rule, expressed in the maxim *mobilia sequuntur personam*, by which personal property was regarded as being subject to the law of the owner's domicile, grew up in the middle ages, when moveable property con-

entire "ability," whether within or without the parish, and that in the same parish every nonresident user (the English local rates have always been levied upon the occupier and not, as in the United States, in case of property taxes, upon the owner) of land therein should be "rated" thereon. This species of double taxation of nonresidents could not be enforced. But neither the courts nor Parliament had the courage to rationalize the tax base until, finally, in 1840, 249 years later, Parliament limited the liability for taxes to the "occupier," that is, the user of the land, whether resident or not. See Cannan, *History of Local Rates in England*, pp. 75–77, 98–101.

[1] E. T. Miller, *A Financial History of Texas*, p. 38.

[2] *Ibid.*, pp. 204–13.

sisted chiefly of gold and jewels, which could be easily carried by the owner from place to place, or secreted in spots known only to himself. In modern times, since the great increase in amount and variety of personal property not immediately connected with the person of the owner, that rule has yielded more and more to the *lex situs*—the law of the place where the property is kept and used. For purposes of taxation, as has been repeatedly affirmed by this court, personal property may be separated from its owner; and may be taxed on its own account, at the place where it is, although not the place of his domicile, and even if he is not a citizen of the state which imposes the tax.[1]

This development was inevitable. It can be justified partly on the cost and benefit principles; for property of nonresidents involves no less cost to the state and enjoys as much benefit from state activities as does that of residents. It is also readily justified on the principle of ability to pay; for if we regard such property as capital employed in local business ventures, then the taxpaying ability of such business enterprises is not appreciably diminished by the fact that a part or all of its capital is owned by nonresidents.

It is substantially on this ground, namely, that such producers' capital owned by nonresidents is on the same basis as that owned by residents, that disputed cases of tax liability are decided in the courts. Thus, if a state imposes a tax upon the property of a nonresident, which property is employed in construction work within the state on the same basis as upon similar property locally owned, the state is well within its powers.[2] Likewise cattle kept for feeding or grazing, though owned by a nonresident, and even if not kept in the state a full year, may be taxed where so kept.[3] Such property has, for the time being, become indistinguishable from the general mass of locally employed personal property; it has established a business situs. The fact that owners of such property may have paid, or may have been liable to pay, a tax on the same property for a part or all of the same period in another state does not prevent such taxes.

The capacity of personal property to acquire a business situs is not

[1] *Pullman Palace Car Company* v. *Pennsylvania*, 141 U.S. 18.

[2] See *E. G. Eoff* v. *Kennefick-Hammond Company*, 80 Ark. 138, or *Grigsby Construction Company* v. *Freeman*, 108 L. 435, and other cases cited.

[3] See *E. G. Fennell* v. *Pauley*, 112 Iowa 94, and other cases cited.

confined to tangible property. Thus the local credits of a foreign corporation doing a local business under the supervision of a local branch office were held taxable, as having essentially the same status as similar credits of domestic corporations. Just when such credits are localized sufficiently to acquire a business situs, seems to be a question of evidence, presenting no small difficulty, owing to the great variety in the forms and operations of business organizations.[1]

The states have not, however, unlimited power to impose tax liabilities upon personalty at will. One such limitation arises from the fact that such property is not only mobile but it is in fact often actually moving—in transit. If this movement is intrastate, the principal effect is to make such property more difficult to reach. But if the movement is interstate, the states lose their power to tax it. The tax liability of such moving property depends upon whether or not the movement has stopped long enough for the property to acquire a local situs; and this appears to be a question of evidence. Thus sheep driven through a state for market in another state were held not to have broken the continuity of the interstate movement and had not acquired a local situs by grazing on their way.[2] Likewise logs, destined for export, but held by a boom while awaiting favorable conditions for floating, were held to have been in continuous interstate movement and hence not taxable while so held.[3]

In Kansas, personal property coming into a county after the tax day, March 1, but before September 1, to be kept in the regular course of employment, must be taxed as if it had been in the county on the regular tax day, unless proof is furnished that such property has been already taxed for the current year in some other county in the state. Evidence of the current tax having been paid in another state will not relieve the owner from paying the tax in Kansas.[4] This arrangement

[1] For two cases upholding the claim for a local business situs, see petition of Standard Oil Company of Indiana, 179 N.W. 482; and *State* v. *Pittsburgh Plate Glass Company*, 180 N.W. 108; for one in which it is denied see *Westinghouse Electric and Manufacturing Company* v. *Los Angeles County*, 205 Pac. 1076.

[2] *Kelley* v. *Rhodes*, 188 S.W. 1.

[3] *Champlain Realty Company* v. *Town of Brattleboro*, 113 Atl. 806. The inferior court upheld the assessment but the decision was reversed by the Supreme Court.

[4] *Mosby* v. *Greenwood County*, 98 Kan. 594, 596.

chiefly affects the cattle-grazing industry. While statutes of other states differ in some measure from this arrangement, it is the typical form.

For one special form of intangible property it is difficult to determine a legal taxable situs that is also economically equitable, namely, the corporate excess, the intangible value, or franchise value, or the amount by which a corporation's aggregate value, as measured by its earning capacity or by some other yardstick, exceeds the value of its physical property. For reasons of expediency rather than of principle, only corporations are supposed to possess such intangible value, although it is difficult to see why individuals and partnerships may not also possess it. The value is presumed to rise from the franchise to be a corporation, or from the privilege of doing business in the corporate form in a state. The value of the corporate franchise can be taxed as property only in the state of incorporation, and may there be assigned for taxation by the state or by the taxing district of its principal office, a provision pregnant with possibilities for abuse. The value of the privilege of doing business in a state may be taxed in the state in which the business is done, with some sharp restriction in case of interstate business. In general, the states have chosen not to tax these values on an ad valorem basis, but by means of franchise taxes based arbitrarily on capital stock or upon the income of the corporation. With few exceptions, the attempts to reach these intangibles are limited to such property as is centrally assessed by the state tax commission. They will be dealt with, in so far as they can be regarded as property taxes, in the proper chapter below.

III. TREATMENT OF INTANGIBLES

Once it is understood, as demonstrated above, that both real property and tangible personalty are to be taxed at their situs without deduction for debts, it will be seen that it is the treatment of intangibles which determines the nature of the property tax system. For, if intangibles are not taxable while tangibles are taxable without deduction for debt, the result is a tax on possessions, a "*Besitzsteuer*," as designated by Moll above, and as accepted as the concept of property taxation for discussion in chapter iii. But if, in addition to the full taxation of tangibles, there is taxation of some or all representative intangibles,

there is, to that extent, a superimposition of one tax base upon another, of equities upon things. It is, however, the superimposition of a partially utilized base of equities upon a fully utilized base of things, and hence it cannot fail, whether administered effectively or not, to produce gross inequalities. For the base of equities is never fully utilized. It is, in fact, only the equities or interests in things held by others than those in possession that are intended to be reached, and not all of them.

There is, even at the present time, no state which does not require taxation of practically all tangible property, not specifically exempt, without deduction for debts. At the same time, there is no state in which some representative intangibles are not also taxable, though in practice, as will be seen below, they are seldom actually taxed. But the states vary widely in the extent to which their statutes require such double or multiple taxation.

A. DEDUCTIONS FOR DEBTS

Securities of the federal government are exempt by constitutional necessity, so that the question of deduction of debts from them does not arise. The same is practically true of a state's own bonds and those of its own political subdivisions. But here the exemption is optional with the state. They are exempt either by contract or by general law. However, the states of Colorado, Illinois, Kansas, North Carolina, Ohio, Rhode Island, Texas, Utah, and West Virginia require their taxation, in part or in full, either as the general mass of personal property or at special low rates. For some reason the bonds of other states and their subdivisions are also usually exempt, although no constitutional or contractual provision by any state, respecting its own issues, could free them from taxation in any other state. But, whether taxable or not, they are rarely taxed.

Money and bank deposits appear to be regarded as possessing more taxpaying ability than most other intangibles, as is shown by the fact that all but nine states[1] require some or all forms of money and deposits to be taxed as personal property, either at the regular rate or at some low rate.[2] Some 22 or 26 states, the number depending upon

[1] Alabama, Connecticut, Idaho, Maryland, New York, North Dakota, Oregon, Washington, Wisconsin.

[2] The taxation of money and credits at low rates is treated in chap. vii, *infra*.

definitions, attempt in the tax law, though seldom seriously in the actual assessment, to tax money and deposits at the same rate as other personalty. It appears that some of them allow deductions for debts against all credits, including bank deposits but not usually including money. There seems to be a disposition to treat savings accounts less severely than checking accounts. The reason for the relatively severe treatment of deposits, but especially of money, is sometimes said to be that they are less representative in character than other intangibles. Where money and deposits are exempt from property taxation, they are generally presumed to be reached through an income tax, as in Wisconsin and New York, or in some other way. But, regardless of what the tax law requires, only small amounts of money and bank deposits are actually taxed, except in New England, New Jersey, and Kentucky,[1] where some forms of deposits are taxable to the banks and not to the depositors.

Omitting mortgages, or secured debts, and corporate securities, which are reserved for special treatment below, there remains a mass of intangibles of a miscellaneous character, most of which are usually termed "solvent credits." Like all other intangibles, they do not show up conspicuously on the tax roll, but the laws bristle with provisions for their taxation and for guarding against abuse of the privilege of deduction of debts, out of all proportion to the fiscal importance of these credits.

At least eighteen states[2] permit deduction for indebtedness, not from the taxpayer's aggregate holdings of all kinds of property, nor even from all his personal property,[3] but usually only from his solvent credits. This restriction frequently results in making a taxpayer's taxable property considerably exceed his net equity. A taxpayer might be very definitely insolvent and still hold much taxable property. Yet even so,

[1] Also, by law of 1931, in Ohio.

[2] Arizona, Arkansas, Colorado, Connecticut, Illinois, Indiana, Kansas, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New Mexico, North Carolina, South Carolina, Texas, Utah, and West Virginia. By law of 1931, debts are not deductible from credits subject to the Kansas five-mill tax.

[3] Apparently no state permits deduction of debts from the aggregate of the taxpayer's personal property.

the privilege of deducting debts from credits is conceded reluctantly and is variously restricted.[1]

On the part of the taxpayer the temptation is strong to set up debts as large as possible. Hence, all states restrict the privilege of deduction to bona fide debts or "debts owing in good faith." To establish their character the taxpayer is often required to take an oath. As an example of additional specific precautions, and of the character of the temptations to which the taxpayer is exposed, may be mentioned the exclusion from the category of deductible debts of debts not created by full consideration to the creditor. Another type of specific precaution is the provision, in West Virginia and elsewhere, forbidding the deduction of other contingent liabilities, such as those of a surety, "unless the principal debtor is insolvent." Debts as well as credits are not usually to be listed unless solvent, and then only at what is believed to be their fair value in money. Another door is legally closed against abuse by requiring claims not only for money but for "labor, material or for any valuable thing" to be listed as credits.

There are also generally excluded obligations which, although in no wise fictitious, are not balanced, on the side of the creditor, by taxable credits. Many states, for example, exclude amounts due to mutual insurance companies, to whom such credits are not taxable. Unpaid subscriptions to religious, benevolent, or similar associations are not

[1] The meticulous care taken to prevent abuse of the deduction privilege may be seen from the elaborate restrictions of Ohio (as they were prior to the 1931 classification law). Taxable property includes: "The excess of the sum of all legal claims and demands, whether for money or other valuable things, or for labor or services due or to become due to the person liable to pay taxes thereon, including deposits in banks or with persons in or out of this state, other than such as are held to be money as hereinbefore defined, when added together (estimating every such claim at its true value in money), over and above the sum of legal bona fide debts owing, but there shall be taken into account no obligation to any mutual insurance company, nor any unpaid subscription to the capital of any joint-stock company, nor any subscription for any religious, scientific, literary or charitable purpose; nor any acknowledgment of any indebtedness, unless founded on some consideration actually received, and believed at the time of making such acknowledgment made for the purpose of diminishing the amount of credits to be listed for taxation. Pensions receivable from the United States are not held to be credits. Both credits and debts are to be estimated at no larger sum than it is believed can be collected or paid" (Bureau of the Census, *Digest of State Laws Relating to Taxation and Revenue, 1922*, p. 351 [hereafter referred to as *Digest of State Laws*]).

usually deductible, for the same reason. In Wyoming unpaid subscriptions for capital stock are also not deductible. In South Carolina and elsewhere taxes assessed may not be deducted. California, Idaho, and New Jersey further restrict the opportunities for evasion and for diminishing the tax base by prohibiting the deduction of debts due to nonresidents. It would not only be more difficult to verify such credits than those due to residents, but they could be taxed only in the state of residence of the creditor. New Jersey requires the taxpayer to list the name of the creditor. Nevada still further limits the deduction to debts of the same character as the credit. Somewhat similar ambiguous and unreasonable restrictions have been abandoned in Kansas.

In four states[1] credits are wholly or partly exempt, and, consequently, there is less reason for deducting debts. Mississippi, however, requires credits drawing interest at more than 6 per cent to be taxed. Vermont, which taxes only such property as is especially enumerated, exempts notes drawing 5 per cent or less. In Louisiana, no deduction for debts is permitted, but such credits as are due for merchandise sold are exempt; this leaves only a small amount of taxable credits. Thus in 1922 there was listed only $1,802,525 of taxable credits, of which nearly 90 per cent was in New Orleans Parish.[2] This amounts to only about $\frac{1}{10}$ of 1 per cent of the total assessed valuation. Consequently, no great change in tax rates would be wrought by exempting all credits.

If we may judge from the absence of specific provisions in the law, five states[3] do not permit any deduction on account of debts. All credits, with minor exceptions, are required to be listed. But in these states the intolerable conditions to which such a requirement would lead if enforced are avoided by the almost complete absence of effort, in practice, to tax such credits or by other forms of taxes than the general property tax.

The doctrine that the tax should be on things or possessions rather than on equities, as well as the practical conditions that make such a course necessary, is well expressed by the Maryland Special Tax Commission of 1888:

[1] Alabama, Mississippi, Washington, Wisconsin. In the last, money is also exempt.

[2] *Report of Tax Commission, 1922*, p. 220.

[3] Delaware, Florida, Missouri, Oklahoma, and Tennessee.

Before leaving the subject of exemptions we desire to say that we do not approve of any proposition to allow a taxpayer to deduct his indebtedness from the valuation of his property in fixing his assessment. The argument that a man's actual worth in real or personal property, is the value of his property less his indebtedness, and therefore he should not be taxed for more under Article 15, of the Bill of Rights, it seems to us is not a good one. That Article has existed ever since Maryland ceased to be a Province, and became a sovereign State, and from the beginning, taxes have been laid upon the whole of the citizens' property without reference to what he owed. And it seems to us that a man should pay taxes upon the full value of all he owns, whether or not he has borrowed money in order to acquire or retain it. He possesses, occupies, uses and exercises dominion over it and expects the same protection and consideration from the State for it, as if he owed nothing upon it, and he ought to make to the State the same return for it. But the principal objection to allowing such a credit is found in the experience of those states which do so, where the practical result has been, to a large extent, to withdraw personal property from taxation.

It opens the door to and invites all sorts of unjustifiable subterfuges, the creation of pretended indebtedness, the perpetuation of notes and obligations long after they have been paid; and it is even stated that in some of the counties of New York there is an ardent desire and active competition upon the part of owners of personal property to become sureties upon the official bonds of county officers, in which case they return the whole penalty of the bond as a part of their indebtedness. The result has been immense loss to the State revenues and the demoralization of the people by presenting to them additional facilities to defraud the State.[1]

B. MORTGAGES

Mortgages or secured debts are differentiated on two bases, (1) whether they are real estate or chattel mortgages, and (2) whether they are domestic or foreign, depending upon whether the underlying property is located within or without the taxing state. Not only are there wide differences in the methods of the several states in taxing mortgages, but within each state the method varies according to the distinction here drawn. It is, therefore, necessary to discuss each class separately.

In fifteen states[2] domestic real estate mortgages are exempt. In

[1] *Report of the Maryland Tax Commission, 1888*, p. 77.

[2] California, Colorado, Delaware, Idaho, Maine, Montana, Nevada, New Hampshire, North Dakota, Oregon, Tennessee, Utah, Washington, Wisconsin, and Wyoming.

Utah, the constitution requires the exemption.[1] In Colorado, the Supreme Court has ruled that to tax real property without deduction for debt, and also to tax the mortgage, was double taxation. Doubtless the wish to encourage the influx of capital for loans on local real estate was the leading motive back of this ruling. The list of states exempting mortgages contains many borrowing states. But others, such as New York and Wisconsin reach whatever ability mortgages are presumed to possess through a recording tax or an income tax. A small number of states disclose other motives in the restrictions subject to which partial exemption may be enjoyed. In Connecticut, only the excess of the face value of the mortgage over the value of the underlying property situated in the state is taxable. Obviously these "excesses" must be of negligible fiscal importance. The exemption enjoyed in New Jersey and Nebraska is complete unless the mortgagor should choose to claim the mortgage as offset against the real property; but contracts regularly prevent this division of tax liability. In Vermont, the exemption is contingent upon an interest rate not in excess of 5 per cent and upon the mortgagee being a Vermont resident. A similar exemption is allowed in Mississippi if the interest rate is not greater than 6 per cent. Indiana allows deduction of mortgages on residences to the extent of $1,000 or 50 per cent of the value of the property, provided the mortgagor reports the mortgagee, who is then liable for the tax on that amount. In North Carolina, a similar exemption is allowed on a mortgage given as purchase money for a home, the price of which does not exceed $3,000, provided the rate of interest does not exceed 5½ per cent. In Florida, mortgages given as purchase money are exempt; but, according to reports, mortgages are never taxed there anyway. The privilege of dividing the tax liability between the mortgagor and mortgagee obtains in Arizona. It formerly obtained in California, Massachusetts, Nevada, and Wisconsin. But it was and is of no effect since the mortgagor invariably undertakes to pay the tax on the equity of the mortgagee as well as on his own. A law could conceivably be enacted forbidding such division, but it would presumably merely raise the interest cost by the amount of the tax to the borrower.

In nine states[2] the laws require domestic as well as foreign real estate

[1] Art. xii, sec. 3.

[2] Arkansas, Arizona, Georgia, Illinois, Missouri, New Mexico, South Carolina, Texas, and West Virginia.

mortgages to be taxed as personal property at the local rate in the district of the owner's residence. But in practice such mortgages are not reached. Though it is reported that such interests, by reason of being publicly recorded, cannot escape, yet all that is necessary to prove that they do almost fully escape is a survey of the tax roll to note the negligible amounts of such property thereon.

In fifteen states[1] domestic real estate mortgages are taxable in one of the three ways employed under the classified property tax, either at a low uniform rate, or on a low fractional valuation, or by means of a nonrecurrent recording tax.

It is not necessary to develop at length the methods of taxing other mortgages, whether they be foreign real estate mortgages or domestic or foreign chattel mortgages. A mortgage secured by real estate in one state can be taxable only as personal property in any other state. It is therefore essentially like a chattel mortgage. And all mortgages, other than domestic real estate mortgages, are seldom significantly different from the general run of solvent credits. Nor are they, in general, taxed differently than solvent credits. There are some exceptions to this statement. Thus in Colorado, the supreme court decision which held domestic real estate mortgages not to be taxable property extended to chattel mortgages; but this is not usual. It is in general legitimate to say that of all secured debts only domestic real estate mortgages merit and receive separate treatment for taxation purposes.

C. CORPORATE STOCK

The development of the corporate form of business organization has introduced an additional problem into the already difficult task of administering property taxes. Corporations of diverse types are treated differently, hence, what is said here concerning taxation of corporate stocks is true only for corporations in general.[2] In almost every state there will be exceptions, selected corporations being taxed in special ways.

[1] Alabama, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Vermont, and Virginia.

[2] Specifically, it is not true for state and national banks. The taxation of banks constitutes a distinctly separate problem which is reserved for detailed treatment in a subsequent chapter.

In general, according to the doctrines of the general property tax, the property of corporations is taxed on the same bases as that of individuals. But this statement requires elaborate modifications. In the first place, there are numerous adaptations in methods of assessment where the principle of the general property tax is retained. In the second place, certain corporations—of which insurance companies are an important type—have been withdrawn from the general property tax. Public utility property, especially railroads, and certain financial organizations are also often separately taxed.

The question at this point is not how property owned by corporations is taxed, but how shares of stock and bonds issued by corporations and in the hands of owners are treated for taxation, whether their owners be corporations or natural persons. Owing to the confusion of the two concepts of property as a tax base, namely, that of property as tangible things plus nonrepresentative intangibles, on the one hand, and property regarded as equities in things, on the other, there has been a widely prevailing idea that no objectionable double taxation was involved in taxing property of the corporation to the corporation, and at the same time taxing the corporate securities to the holders as property. Not that careful students of taxation held this view,[1] but many taxpayers and legislators did. And the courts upheld the attitude that, while it might not be equitable, it was quite lawful to tax corporate property and also the shares representing this property.

There was enough of truth in the contention for the courts. For there is or may be in the corporate shares of stock an element of nonrepresentative intangible property which would not be reached by the tax on the value of the physical property, although it is also true that such nonrepresentative intangible value may exist in any unincorporate business enterprise. But the corporate franchise is a convenient peg on which to hang the tax; for the share is documentary evidence of equity in the corporate property, and has no counterpart in unincorporate enterprise. That the corporate bonds are mainly representative property is not difficult to see. It is not so easy to isolate the nonrepresentative element in the shares. The taxation of corporate bonds is not, in

[1] Cf. E. R. A. Seligman, "The Taxation of Corporations," *Essays in Taxation* (9th ed.), pp. 142–315, and sources there cited. There is no adequate current treatise on the subject.

fact, very different from the taxation of other representative intangibles. At this point the interest attaches primarily to the shares.

The extreme of multiple property taxation of corporate interests occurs where the tangible property is taxed to the corporation, the stock is taxed to the corporation, and also to the holders. No state, however, directly imposes all of these taxes. But owing to the different methods in use, something of the kind does often occur; while, on the other hand, some property, for the same reason, escapes.

The states may be grouped in somewhat arbitrary fashion, for description of their methods of taxing shares of stock. The first group consists of those states which do not tax the shares as such to the holders. This group may again be divided. There is, first, the group of twelve states[1] which have adopted a state income tax as the alternative to the property tax on the shares. In general, these states levy no property taxes at all on any intangibles. There is, therefore, no discrimination in favor of stocks of domestic corporations. In Colorado, by administrative practice, the shares of both foreign and domestic corporations are not taxable property for a reason similar to that given by the courts for not taxing domestic real estate mortgages. They are also exempt in Arizona, Louisiana, and Wyoming.

In eleven states[2] and the District of Columbia, the shares are either exempt to the holders or take the specified, uniform mill rates of the respective states. Whether or not they are exempt depends upon various conditions, such as the amount of business done, the amount of property in the state, having the principal office in the district, and the class of corporation. In Rhode Island any amount of business in the state will exempt, while in Kentucky 75 per cent of the corporation's property must be taxed in the state in order to exempt domestic shares.

Eleven more states[3] impose personal property taxes at the local rates upon both domestic and foreign shares unless the shares are exempt for

[1] Connecticut, Delaware, Massachusetts, Mississippi, New Hampshire, New York, North Dakota, Oregon, Tennessee, Virginia, Washington, and Wisconsin. In Ohio, since 1931, shares are taxed at a low rate if not income-paying, otherwise on income.

[2] California, Iowa, Kentucky, Maryland, Minnesota, Nebraska, Ohio, Pennsylvania, Rhode Island, South Dakota, and Vermont.

[3] Florida, Georgia, Kansas, Missouri, New Jersey, North Carolina, Oklahoma, South Carolina, Texas, Utah, and West Virginia.

some such reason as payment by the corporation of stipulated taxes on property or capital in the state. The law may discriminate against domestic shares but usually favors them. Thus, in Oklahoma, foreign shares must pay the personal property tax, but domestic shares may be exempt if the property of the corporation is taxed in the state. In Kansas, domestic shares are exempt if the corporation has paid the corporate excess tax; and foreign shares may be exempted if the corporation has its principal office in the state.

The remaining states either permit exemptions contingent upon various conditions or require taxation of all shares at the regular local rates. But from these states it is reported that in practice the shares are not taxed, and that the assessors make no serious effort to reach them.

It is not to be expected that the states should treat the shares of foreign corporations as leniently as those of corporations of their own creation. A state possesses more extended powers of taxation and control over domestic than over foreign corporations. The idea also prevails that a domestic corporation has its property in the state, while a foreign corporation has its property elsewhere. This is not always true. For large corporations operating in many states and counties, it is less likely that any larger part of the property will be located within the state of incorporation[1] than in the other states in which it operates. Finally, if a corporation does no business in a state, a tax on the shares to a resident holder is the only way in which property in this form can be made to contribute toward local functions. For these reasons and possibly others, shares of stock in foreign corporations are generally taxable as personal property to the holder; this is not usually true of domestic stock. It should be obvious that this involves multiple taxation; for a corporation may have most, or practically all, of its property in states other than the state of incorporation.

[1] For an example of the attitude of the courts, see *Coca-Cola Company* v. *City of Atlanta*, 110 S.E. 730. Plaintiff, a foreign corporation, had 15 per cent of its assets in Atlanta, which were there duly taxed. City of Atlanta was held entitled to tax shares held locally, although shares of domestic corporations were exempt. The classification into domestic and foreign corporations and the taxation of the shares of the latter only were held valid on the assumption that the assets of the plaintiff were situated outside the state. That there were exceptions to the rule, and that plaintiff was clearly an exception, were held not to invalidate the rule.

There are exceptions to this rule. The states of Utah and Montana have embodied provisions in their constitutions to the effect that "the definition of property" shall not authorize the taxation of shares of stock in corporations when the property on which the shares are based has been taxed. This appears to apply to both foreign and domestic corporations; and it would appear to apply whether the property is located in the state or without. So also the exemption in Massachusetts and Vermont appears to extend to both foreign and domestic stock. Nebraska, while taxing foreign shares as personalty, includes them within the definition of intangibles subject to the low rate tax.

To summarize briefly: Real property is taxable where situated to the legal rather than the equitable owner, or his representative. With minor exceptions this is coming to be true also of tangible personal property, particularly producers' goods. If there were no taxes on intangibles, the present American property tax would be a fairly consistent tax on possessions, regardless of ownership. The practice ranges all the way from that of Delaware, where practically no intangibles are taxable or taxed, to that of Illinois and Indiana, where practically everything that is evidence of [illegible]able. To varying degrees, then, the states impose upon a [illegible]nsistent system of taxes on possessions, a partial and inco[illegible]tem of taxes according to equities in things. The bad effects of these practices will be pointed out in the following chapters.

CHAPTER V

EXEMPTIONS

The definition of taxable property is not complete until it is clear how much and what classes of the general mass of property are withdrawn from taxation. It has always been the practice of governments to exempt some property from taxation. In colonial days exemptions were more prevalent than today, as only specified property was to be listed. In addition, many specific exemptions obtained. Teachers and ministers of the gospel were freely exempted; and many types of property were exempt for "encouragement." In fact, tax exemption was then an accepted device for stimulating industry. This practice still survives, especially in the New England and certain southern states. In the movement for uniform and universal taxation of property many exemptions disappeared. That movement, having apparently run its course, the demand for exemptions has again become insistent; and there is an increasing "nibbling away" of the tax base through exemptions granted for a great variety of reasons.

I. EXTENT OF EXEMPTIONS

While any one category of exemptions does not withdraw a great deal of property from the tax base, the number of categories is large, as is the aggregate value of the exempt property. A committee of the National Tax Association has warned against further exemptions and has recommended that some be repealed.[1]

It is difficult to ascertain accurately the actual extent of exemptions. Taxable property is necessarily required to be listed; but exempt property, especially exempt personal property, usually is not. A few states, however, New York, Connecticut, and Massachusetts among them, have recently required exempt real property to be listed as fully as that which is taxable. Inasmuch as the assessment of exempt property is only for information, assessors do not always comply with the require-

[1] *Proceedings*, XIII (1920) 235–46.

ment to list such property. Thus in Colorado, in 1930, provision was not even made on the assessment blank for recording exempt property, although the statutes require its assessment.[1] For exempt personal property no reliable data exist.

The Bureau of the Census estimated the value of exempt real property in 1890 at $3,833,000,000; this amount increased to $12,314,000,000 in 1912 and to $20,506,000,000 in 1922. The growth in population and wealth are, of course, the principal causes of the increase. The corresponding per capita amounts are, respectively, $61, $129, and $200, approximately. Meanwhile, the total value of all wealth, taxable and exempt, increased, in the aggregate, roughly at the same rate—from $65,037,000,000 in 1890, to $186,300,000,000 in 1912 and to $320,804,000,000 in 1922. Reduced to a per capita basis, the figures are, respectively, $1,036, $1,965, and $2,951. These data do not show that the problem of exemptions is speedily becoming more serious. Expressed as a percentage of the total value of real property, the exempt real property, as shown in Table 27, indicates no conspicuous increase.

TABLE 27

PERCENTAGE OF REAL PROPERTY EXEMPT IN THE UNITED STATES, BY GEOGRAPHIC DIVISIONS, FOR SELECTED YEARS*

Geographic Division	Percentage Exempt in Specified Years			
	1922	1912	1900	1890
United States	11.6	11.1	11.8	9.7
New England	14.1	12.2	11.4	10.8
Middle Atlantic	15.2	15.8	11.8	8.1
East North Central	8.8	8.2	7.0	6.1
West North Central	6.6	8.5	7.1	6.6
South Atlantic	11.4	14.1	17.2	14.1
East South Central	9.3	9.4	8.0	7.0
West South Central	9.3	8.6	23.8	15.0
Mountain	25.8	9.0	42.3	34.3
Pacific	12.9	8.5	5.7	10.9

* Computed from data in *Wealth, Debt, and Taxation* for the respective years.

[1] J. P. Jensen, *Survey of Colorado Tax System*, p. 44.

Further analysis shows reasons for the decrease found in some states. Some of the variations may be explained by the alienation of the public lands during the period. As these lands were alienated, they became taxable. This explanation evidently partly accounts for the reduction in the West South Central Division, from 15 per cent in 1890, to 9.3 per cent in 1922, and in the Mountain Division from 34.3 per cent to 25.8 per cent. It also explains in part the high figure for the Mountain Division for all the years, as in this region the federal government still has extensive holdings. This explanation is strengthened if the

TABLE 28

PERCENTAGE OF REAL PROPERTY EXEMPT IN SELECTED STATES, FOR SELECTED YEARS*

State	Percentage Exempt in Specified Years			
	1922	1912	1900	1890
Montana	19.1	8.2	40.8	47.1
Idaho	30.8	11.9	50.8	70.0
Wyoming	55.4	10.0	62.8	69.8
Colorado	21.1	8.2	20.4	14.1
New Mexico	26.1	8.1	64.5	66.7
Arizona	19.1	8.2	62.3	72.9
Utah	21.9	12.5	35.0	32.3
Nevada	39.3	8.6	78.0	72.8
Oklahoma	19.2	8.3	87.0	100.0
North Dakota	18.5	8.2	14.0	26.8
South Dakota	8.8	10.6	17.2	16.0

* *Wealth, Debt, and Taxation.* No satisfactory explanation occurs for the low figures for 1912.

changes are shown by states. In Table 28, the exempt real property in the states of the Mountain Division and three other states shows a rapid decline, relative to the total real property.

Reference has been made to the hardships involved in the delayed completion of title to alienated public lands. Table 28 does not fully indicate the extent of the hardships in particular communities; for the exempt lands are, of course, heavily concentrated in particular taxing districts. The problem is inseparable from the mode of alienating public lands adopted in the United States. Thus Illinois, upon becoming a state, agreed with the federal government, in exchange for certain land grants and other privileges, to exempt from taxation for a period of five years all lands sold by the latter, and all lands granted as

bounty lands for military service, while they remained in the hands of the original patentees or their heirs, and for three years thereafter. At that time the population roughly doubled itself every five years. Consequently, perhaps more than one-half of all the lands in the state were exempt, and in some districts a much larger percentage. The problem became so pressing that Governor Edwards in his message to the legislature in 1830 recommended abrogation of the agreement.[1] This problem still arises in localities where federal property is concentrated.[2]

Doubtless there is a general relationship between the percentage of real property exempt and the density of the population. Not only do governmental functions and therefore public property tend to be concentrated in the centers of population, but this seems to be true also of such privately owned exempt enterprises as schools, churches, and hospitals. Such states as New York and Massachusetts are the educational centers of the country, and have more than the average percentage of exempt property. Thus, in 1922, while the exempt real property for the United States as a whole was 11.6 per cent of the total real property, for the New England geographic division this figure was 14.1 per cent, for the Middle Atlantic division 15.2 per cent, and for the states of Massachusetts and New York, respectively, 14.9 per cent and 19.3 per cent.

This tendency of exempt property to increase with population is even more conspicuously seen when the percentages of exempt property are shown by counties, as in Table 29, for New York in 1918. The counties of Bronx, Kings, New York, Queens, and Richmond show percentages of exempt real property, respectively, of 26.4, 19.2, 28.0, 12.5, and 30.1. This same fact may be more briefly conveyed by saying that these five counties contained 70.8 per cent of all the real property

[1] Haig, *A History of the General Property Tax in Illinois*, pp. 29–31.

[2] Thus in Watervliet, New York, population 16,158, "during the war the government purchased two pieces of property for the extension of the arsenal. This took off of the tax roll about $400,000 worth of property. Subsequently, this land was resold to private parties for residential use. It was sold on the ten-year plan, whereby the government retains title to the land until paid for. The result is that the community loses the revenue from this land for ten years and at the same time has to meet school, road, fire, and police expenses necessitated by the residents of this property" (Special Joint Committee on Taxation and Retrenchment. *Tax Exemption in the State of New York*, Legislative Document No. 86 [1927], pp. 77, 78).

in the state but contained 78.1 per cent of all the exempt real property. In Albany County, seat of the state capital, 46 per cent of all real property was exempt in that year.

TABLE 29

PERCENTAGE OF REAL PROPERTY EXEMPT, NEW YORK, BY COUNTIES, 1918*

POPULATION PER SQUARE MILE, 1920	PERCENTAGE EXEMPT											
	0–3	3.1–6	6.1–9	9.1–12	12.1–15	15.1–18	18.1–21	21.1–24	24.1–27	27.1–30	Over 30	Total
1–25	1	1	1	....	....	....	....	....	....	....	....	3
26–50	....	5	7	3	....	....	....	1	....	....	....	16
51–75	....	....	6	4	2	1	1	1	....	....	....	15
76–100	....	....	2	2	....	....	....	1	....	....	....	5
101–125	....	....	2	....	2	....	....	....	....	....	....	4
126–150	....	....	1	1	....	1	....	....	....	....	....	3
151–175	....	....	....	....	....	1	1	....	....	....	....	2
176–200	....	....	....	....	....	....	....	....	....	....	....	....
201–225	....	....	....	....	....	....	....	....	....	....	....	....
226–250	....	1	....	....	....	....	....	....	....	....	....	1
251–275	....	....	....	....	....	....	....	....	....	....	....	....
276–300	....	....	....	....	....	....	....	....	....	....	....	....
301–1000	....	....	....	3	1	....	....	....	....	....	1	5
Over 1000	....	1	1	....	2	....	1	....	1	1	1	8
Total	1	8	20	13	7	3	3	3	1	1	2	62

* Computed from census reports, 1920, as to population, and from *Report of State Tax Commission of New York, 1918*, p. 166, as to percentages of exemptions. A much more elaborate statistical analysis of this and similar relationships is made for New York by the Special Joint Committee on Taxation and Retrenchment, *Tax Exemption in the State of New York*, pp. 19–80.

That it is difficult to obtain accurate data covering amounts and percentages of exempt property, even when such data are sought by the regular assessors as a part of the assessment process; that data of any kind can hardly be secured elsewhere; and that such data as can be obtained show wide variations in the percentages of property exempt, are well-known facts. The accuracy of the valuation of exempt real property is affected by certain administrative conditions. In explaining the tables of its 1928 report, showing the value of the various classes of exempt real property, the New York Tax Commission states:

There are many qualifications and limitations to the figures included in this table. It probably does not include all of the exempt property in the state. When a community develops a tax map it is often found that various properties have not been carried on the rolls. In case of exempt properties there is greater liability of omission. As no taxes are involved, the valuations placed upon the property may not be accurately determined. For the reason, also, that no one is to take offense at the valuations, it may be in some cases that assessments are nearer full value than assessments of taxable property.[1]

In addition to these practical administrative difficulties, there are some difficulties of principle. The issues involved may be raised by the question: To what extent is the value of exempt property reflected in the value of adjacent property that is taxable?[2] To the extent that it is reflected in the value of adjacent property, the value of the exempt property is already taxed; and the exempt value is in a sense fictitious. Streets and highways are public property and very valuable; but they are, by common consent, never included as exempt property for the reason that such value as they possess is reflected in the value of the adjacent land. But the same must be true of a great deal of other exempt property, sometimes suggested for taxation. Thus, of the $2,154,100,000 of exempt property devoted to educational uses in New York State in 1928, $1,282,100,000 consisted of parks and playgrounds, 92 per cent thereof in New York City. The value of the property of the area interested in these parks reflects in part the value of the parks and playgrounds. The same must be true, in a slightly different sense, of school property and of administrative buildings. If such property were taxed, the money to pay such taxes could only be raised by taxes. If the exempt property is used for a locally beneficial purpose, to tax it would not appear to solve the problem.[3]

II. CLASSIFICATION OF EXEMPT REAL PROPERTY

It is difficult but necessary to classify exemptions. The two most significant bases of distinction are, first, ownership, and second, the use made of the property.

[1] *Report, 1928*, p. 62.

[2] The New York Tax Commission deals with this question in its *1928 Report*, p. 62.

[3] Cf. Sec. IV, *infra*, for problems involved in taxing or exempting public property.

A. CLASSIFICATION ACCORDING TO OWNERSHIP

Most of the exempt real property of which records are available is publicly owned. In 1915, in the state of New York, $1,861,038,283 worth was publicly owned, while $660,666,720 worth, or a little more than 25 per cent, was privately owned. By 1928, however, the percentage had changed. Of the $5,866,721,151 of exempt real property, $2,103,433,831, or nearly 36 per cent, was privately owned. The change is due to a post-war policy of exempting residence buildings in

TABLE 30

EXEMPT REAL PROPERTY IN NEW YORK STATE, 1915, 1918, 1923, 1926, AND 1928, CLASSIFIED ACCORDING TO POLITICAL DIVISIONS

(In Millions)*

Division	1915	1918	1923	1926	1928
Total exempt real estate....	$2,521	$2,810	$3,731	$5,117	$5,867
Publicly owned................	1,861	2,168	2,674	3,201	3,764
United States................	101	109	195	195	213
State of New York...........	109	115	141	180	201
Counties of New York........	22	27	36	52	76
Cities of New York...........	1,584	1,865	2,289	2,662	3,125
Towns in New York..........	11	14	19	24	30
Villages in New York.........	8	11	14	18	24
School districts...............	26	27	41	70	95
Privately owned...............	661	642	1,057	1,916	2,103

* Annual reports of Tax Commission. The large increase in privately owned exempt property is accounted for chiefly by new buildings which, in certain cities, are temporarily taxable only for county and state purposes. Certain other privately owned property is also only partly exempt. Most of this temporary exemption will disappear in a few years, when the exemption expires by limitation. For explanation, see e.g., the *1928 Report*, pp. 61–64.

part, for encouragement of home-owning. The detailed classification of the exempt real estate, according to the political divisions owning it, may be seen in Table 30.

The cities are by far the largest holders of exempt property. In 1915, all of the cities in New York state held tax-exempt public property to the amount of $1,584,000,000; of this the city of New York alone held nearly two-thirds, or over one billion dollars. In 1928, the exempt real property of the cities had increased to $3,125,000,000. Parks, playgrounds, gardens, and public-school buildings constitute a large share of the property held by cities. Important also is the group of the various public utility properties, such as water and sewage

systems, bridges, docks, ferries, and subways. Less important, but still large in amount, is the group of administration buildings, such as city halls and court houses. Second in the list is the state, with an aggregate of $109,000,000 in 1915 and $201,000,000 in 1928. The federal government is third with a valuation of $101,000,000 in 1915, and of $213,000,000 in 1928. Less important are, in the order named, school districts, counties, towns, and villages.

B. CLASSIFICATION ACCORDING TO USE

Classified according to the purpose for which exempt property is used making no distinctions as to the character of the ownership, there were, in New York State, the groups shown in Table 31. Of these main

TABLE 31

EXEMPT REAL PROPERTY IN NEW YORK STATE FOR SELECTED YEARS CLASSIFIED ACCORDING TO USE

(In Millions)*

Class of Use	Amounts Exempt in Specified Years				
	1915	1918	1923	1926	1928
Total	$2,521.7	$2,881.2	$3,730.7	$5,117.1	$5,866.7
Educational	1,059.3	1,089.0	1,333.1	1,770.8	2,154.1
Agricultural	1.1	1.1	1.4	2.1	2.5
Religious	309.3	337.1	330.8	475.0	563.8
Fraternal and benevolent	36.3	55.3	44.2	46.3	52.3
Charitable	46.6	28.8	46.5	63.5	83.4
Curative	86.8	106.4	153.9	207.4	263.7
Protective	73.1	73.1	82.7	86.0	98.1
Defensive	72.8	126.7	148.8	145.2	157.1
Public utilities	588.2	839.3	991.1	1,056.6	1,136.4
Administration buildings	154.7	141.1	197.7	253.3	317.3
Miscellaneous	93.5	73.3	102.0	114.8	124.3
New buildings, privately owned†	....	....	248.6	896.0	916.8

* Annual reports of Tax Commission.

† New Buildings to the value of $248,582,610 exempt from local taxes in 1923 on account of law to encourage construction of dwellings, and $916,847,345 in 1928, because of the post-war scarcity of houses. Of this sum nearly all occurs in Greater New York City.

groups the exempt property devoted to educational purposes exceeds that of any other group; it was $1,059,000,000 in 1915 and $2,154,-100,000 in 1928, or nearly two-fifths of the total. The items in this class are parks, playgrounds, gardens, public-school buildings. The

next largest group is that of public utilities, amounting to $588,000,000 in 1915 and $1,136,400,000 in 1928. Within this group the largest item is that of docks, bridges, and ferries, with subways second. Doubtless this group of properties is relatively larger in New York than elsewhere. The extensive public ownership in the metropolis swells the exempt property to large amounts. All of this group of real property would regularly be taxable if privately owned.

The third largest group is that devoted to religious enterprises, $309,000,000 for 1915 and $563,800,000 for 1928. The largest item is that of churches and similar properties devoted to religious worship.

It is probable that the value of the personal property exempt from taxation is much larger than that of exempt real property, although the various items individually are much smaller, amounting usually to only a few hundred dollars per taxpayer. The number of items of exempt realty is relatively small; while that of exempt personal property is very large, almost every taxpayer being exempt in respect to a modicum of personal property. The National Industrial Conference Board estimated[1] that, for the year 1921, the total amount of our national wealth was $275,000,000,000. Of this huge sum, realty to the amount of $18,400,000,000, or approximately 6.7 per cent, was exempt. The amount of exempt personalty was estimated at $35,600,000,000; the bulk of this consisted of public securities, national, state, and local. Even were it practically possible to classify exempt personal property according to ownership and use, no serious purpose could be served thereby. Exempt personalty is predominantly privately owned, though, as in case of public securities, there may be a strong public interest involved. The amount of exempt tangible personal property in practice taxable, is not very large relative to the exempt intangibles.

III. PSEUDO-EXEMPTIONS

A great many phenomena that appear in the form of exemptions are in fact something else. They may be mere adjustments of the tax base to avoid multiple taxation, or they may be exemptions from the simple form of property taxation in lieu of special taxes more suitable for the particular property and enterprises.

[1] *Tax Burdens and Exemptions*, Research Report No. 64, pp. 58–94.

A. REPRESENTATIVE PROPERTY

In so far as the tax is on possessions rather than on equities, it is inappropriate to speak of the exemption of representative property. Whether or not mortgages, bonds, notes, accounts, and other evidences of debt shall be taxable is not properly a matter of exemption; it is a matter of defining the tax base. This is also partly true of shares of capital stock. Inasmuch as the property tax is, in contemplation of law, to some extent imposed upon equities as well as things, there are exemptions where some evidences of debt are taxable and others are not. Because of the confusion in the law, and because of the widely diffused interest in the question of exempting intangibles, they must be briefly considered, even though the chief purpose is to show that this class of property is not properly taxable.[1] There are two principal groups of such intangibles, namely, (1) publicly and (2) privately created claims.

The securities issued by the national government are not taxable as property by the states. Prior to the World War, the exemption of federal securities from state and local taxes was not a serious matter. After the liquidation of the Civil War debt, the total federal interest-bearing debt seldom exceeded $1,000,000,000. Moreover, the securities were not extensively held by individuals and could not be used by wealthy taxpayers as means of avoiding taxation. With more than $16,000,000,000 of federal securities outstanding in 1929,[2] the situation is somewhat different.

The causes for the public interest in the question of tax-exempt securities were two, closely related in an unusual situation. The heavy federal bond issues during the war and the heavy borrowings of cities and other local taxing units after the war, to catch up with delayed construction programs, enormously increased the amount of public securities outstanding, with principal exempt from property taxes and interest exempt from income taxes. At the same time the necessity for reducing the debt, the high interest charges, and the inflated expenditures made high taxes necessary. While the surtaxes of the federal in-

[1] The analysis of the uniformity rule, applying indiscriminately to tangibles and intangibles, is undertaken in chap. vi, *infra.*

[2] Estimated at $16,742,800,000 net outstanding at the close of the fiscal year 1929 (*Cost of Government in the United States, 1927–1928,* p. 20).

come tax were high, it was to the interest of many wealthy persons to purchase tax-exempt securities instead of industrial securities.[1]

The real issue was not one of property-tax exemption, for it would be a futile gesture to attempt to impose property taxes on federal and other public securities should such taxation be made legal. The proper issue was the taxation of the interest thereon as income in federal and state income taxes. An amendment was twice[2] proposed to the federal constitution, which, if adopted, would permit the states and the federal government to levy income taxes, each on the interest from securities subsequently issued by the other, without discrimination. It is perhaps unfortunate that such an amendment was not passed and ratified.[3] But if property taxes on federal securities should be authorized, any law so providing would be a dead letter fully as much as are the state laws purporting to tax the general run of representative intangibles.

In a somewhat different position are the bonds of the states and their several minor subdivisions. In ordinary times they are greater in amount than the federal securities, with the cities the political divisions having the largest debts. In 1922, for example, gross debt of all incorporated places was $5,840,052,000. For the states, the amount was $1,162,651,000; for the counties, $1,366,635,000; and for all other civil divisions, $1,891,811,000; or somewhat in excess of $10,000,000,000 in the aggregate.[4] The state and local net debt of 1928 is estimated at $12,578,900,000.[5]

State and local bond issues are exempt only in the state by which they are issued, and then only if, and in so far as the state makes special provision for their exemption. No state can make its securities tax-exempt in another state. But all of the states could favor, and a few of

[1] Cf. A. E. Mellon, *Taxation: The People's Business*, especially chap. viii; also C. O. Hardy, *Tax Exempt Securities and the Surtax*.

[2] House Joint Resolution 314, Sixty-seventh Congress, fourth session, passed the House but failed of passage in the Senate. Reintroduced as House Joint Resolution 136, Sixty-eighth Congress, first session, it failed of passage in the House.

[3] For an analysis from the point of view of the state of New York, which was vitally interested because of her income tax, see Special Joint Committee on Taxation and Retrenchment, *op. cit.*, pp. 87–120.

[4] *Wealth, Public Debt and Taxation: Public Debt*, p. 81.

[5] By the National Industrial Conference Board, *Tax Burdens and Exemptions*, p. 34.

them have favored, the issues of other states, either by freeing them entirely from any property tax or by imposing other taxes on them at a lower rate.

A special class consists of securities, whether bonds or stocks, issued by private corporations, sufficiently affected, in the opinion of Congress, with public interest to warrant their exemption. It is chiefly the federal corporations that concern us here, since the federal government imposes no general property tax and since no state can exempt its own securities in any other state. The two most important groups of securities in this class are bonds issued by the federal corporations, such as the land banks, together with their underlying mortgages, and shares of the national banks.[1]

The bonds of the federal land banks are declared by Congress to be instrumentalities of the government and therefore exempt from property taxes. A recent decision of the Supreme Court[2] sustaining this power of the Congress to declare these bonds tax-exempt applies to the bonds of the land banks proper and to those of the joint stock land banks. The amount of these securities is not very large, amounting in 1921 to about $300,000,000, but it will no doubt eventually reach several times this amount. It is reported to have been $1,760,000,000 on December 31, 1929, for the federal land banks and the joint stock land banks combined.

B. GROWING CROPS AND YOUNG LIVE STOCK

It is a common practice to exempt growing crops. A number of states make specific constitutional or statutory provision for such exemption.[3] This exemption generally refers to such crops as complete their growth in one season. That many state laws are silent on this point, is doubtless due to the fact that the tax day, as of which the assessment is made, is set at the season at which the value of growing crops is negligible. Thus, at the dates ranging from January in Texas to May or June in the northern states, the value of growing annual

[1] See chap. xviii for the taxation of national banks. These shares are not exempt but their taxation is subject to elaborate restrictions.

[2] *Smith* v. *Kansas City Title and Trust Company et al.*, 255 U.S. 180.

[3] Among these are Alabama, Arkansas, California, Idaho, Tennessee, and Wisconsin.

crops would be small. Such direct or indirect exemptions are reasonable enough. "The taxation of both the land and the crop would result in adding a quasi-income tax to a property tax."[1] On the other hand, the exemption may discriminate against those whose crops are not growing on the tax day, but have been severed and have become taxable as personal property.

The exemption of young livestock has been justified upon similar grounds. Thus, somewhat arbitrarily, Wisconsin extends the exemption to all farm animals born after December 31 next preceding the assessment day. It is more common to fix specific age limits. In Massachusetts, horses, mules, and cattle not over one year old, and all sheep or swine not over six months old are not to be listed. It is not a common practice to include young livestock for taxation.

The exemption is by no means always confined to young stock. The New England states, except Rhode Island, all exempt livestock to some extent, apparently in order to encourage the industry. Connecticut exempts swine to the value of $50; poultry to the value of $25; and angora goats to the value of $100. The limitation in terms of a specified value occurs elsewhere only for a few exemptions; this is probably unfortunate, since the extent of the exemption is thereby left to the discretion of the assessor. The limit is more often stated in terms of the number of animals of each kind that is exempt. An unusual provision occurs in Louisiana, where hogs, sheep, and goats for personal use are exempt; this again throws the decision as to the extent of the exemption upon the assessor, even more completely than if there were a value limit.

Exemptions of this kind discriminate against large holdings, as may be shown from the experience in Maine, where sheep to the number of 35 are exempt. In 1918, of the 106,775 sheep listed, 94,567, or 88.6 per cent, were exempt.[2] It would seem that the remaining 11.4 per cent had better be exempt also, especially since a great deal of discrimination results from their being taxed. In six of the sixteen counties more

[1] Report on Tax Exemption, *Proceedings, 1920*, p. 238. The argument is sound within limits: Where only the current growing crops or the current manufactures in process are not taxable, there is no real exemption; but, where, as in Maine (see below), the majority of livestock is not taxable, the exemption is substantial.

[2] *Report of State Board of Assessors, 1918.*

than 90 per cent of the sheep were exempt; in eight others, between 80 and 90 per cent; in one, 73 per cent; and in another, only 28 per cent. When analyzed by towns and plantations, the discrimination is even more conspicuous. In 521 towns and plantations, all the sheep were exempt while in the 191 others some were taxed, in one town, 91 per cent. Obviously, the discrimination would be still more notable could the holdings of individual taxpayers be shown.

C. IMPROVEMENTS ON LAND

It is for another and somewhat different reason that several states exempt certain improvements on land. New Hampshire, for example, grants a temporary exemption for ten years to improvements caused by reclaiming swamp or swale land. Nebraska exempts the increased value resulting from planting live fences with fruit and forest trees grown and cultivated. In the Rocky Mountain states it is quite common to exempt the ditches, flumes, canals, and other improvements on irrigation projects used by individual or associated owners, if the water or the rights are not sold for profit. Possibly North Dakota went as far as any state in exempting improvements when, in 1923, that state exempted all buildings and improvements on agricultural land. Less drastic, and obviously designed to achieve a different purpose, is the South Dakota exemption of dwelling houses occupied by the owners as homes, to an amount not exceeding $500, not including the land.

D. SUBSTITUTE TAXES

A number of states impose other taxes on specified property in lieu of property taxes. An example is the so-called yield tax on growing timber. Mines and minerals are frequently taxed, especially in the Mountain states, according to gross or net proceeds from operations rather than on their capital value. Railroad and other public utility property in Minnesota and California, as well as to a smaller extent in other states, is subjected to a gross earnings tax in lieu of the regular property tax. Grain in elevators may be subject to a special bushel tax, as in Minnesota. And the past few years have seen a large number of states imposing special taxes upon motor vehicles, in lieu of the property tax. In 1929, at least eleven states[1] imposed such taxes, subject to

[1] Idaho, Maine, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, North Dakota, Oregon, Pennsylvania, and Vermont.

various restrictions. Such special provisions are not exemptions at all, but are merely administrative devices for equitable taxation of selected species of property to which the general property tax is ill adapted.

IV. TAXATION OF PUBLIC PROPERTY

It has been indicated that most of the exempt property is publicly owned. Table 32, showing amounts of exempt privately and publicly owned property in six states, would indicate that the publicly owned share may be in the neighborhood of two-thirds of the whole.

TABLE 32

PERCENTAGE OF EXEMPT PROPERTY PUBLICLY OWNED AND IN PRIVATE HANDS IN SPECIFIED STATES, 1923–25*

State	Property Exempt (Millions)			Percentage of Exempt Property	
	Total	Public	Private	Publicly Owned	Privately Owned
Connecticut	$ 403	$ 213	$189	53.1	46.9
New Jersey	555	336	218	60.6	39.4
Massachusetts	1,188	735	453	61.8	38.2
Michigan	516	376	140	72.9	27.1
New York†	3,828	2,915	913	76.2	23.8
Minnesota	145	111	34	76.6	23.4

* Special Joint Committee on Taxation and Retrenchment, *Tax Exemption in the State of New York*, p. 165. Cf. also *ibid.*, p. 36, where the ownership of exempt real property in New York is shown in diagrams.

† Excluding temporarily exempt housing, Sec. 46, *Tax Law*.

It has been maintained that the state should never tax its own property.[1] For the state to tax itself, it is argued, would be like taking out of one pocket what one is putting into the other; the position of the state is in no way improved thereby, but is rather injured since it has incurred the cost of the administrative work involved. Without taking exception to the main conclusion, it is necessary to point out several implications of this position. The state is regarded as a simple unit, while, as a matter of fact, the state is a complex organization with many subordinate units, among all of which substantial justice must be maintained. Again, the state, in many of its minor divisions, ac-

[1] Cf. H. C. Adams, *The Science of Finance*, pp. 316–19.

quires and operates property in competition with private organizations, out of which situation grows the necessity, on the one hand, of treating the private corporations fairly, and, on the other hand, of measuring truly the performance of the public enterprise in the light of the fact that it does not pay taxes.

With the rapidly increasing functions of the state, it happens that its property is concentrated in certain localities. If such property is not locally taxable, the locality may be severely pressed for revenue. The same situation obtains where a minor division, say a city, owns property such as a water reservoir outside of its corporate limits. The New York State Tax Commission states that

> modern conditions are requiring various municipalities to acquire property in other jurisdictions. Water supply systems are the most important illustration of this necessity. There are now taxing units in the forest preserve counties where nearly all the property is state-owned and unless the state paid taxes for local purposes, the burden on the private real estate owners would be exceptionally heavy, if not unbearable.[1]

Should a state or a minor division thereof acquire property outside its state boundaries, there could, of course, be no exemption, except by treaty between the states affected.

In Maine, municipal property is not exempt unless it is located within the corporate limits of the city. In Rhode Island, the tax each town must pay is apportioned in a lump sum by the legislature, on the basis of the property in the town, including municipally owned property. The town is responsible for the sum required; but, in raising it, the town taxes only private property. Similar arrangements exist in other New England states.

The common practice, however, is to exempt public property entirely. The constitution of Arizona requires that "there shall be exempt from taxation all Federal, State, County, and Municipal property.[2] Similar provisions are found in the constitutions of Alabama,[3] Arkansas,[4] California,[5] Colorado,[6] Idaho,[7] Illinois,[8] Kansas,[9] Kentucky,[10]

[1] *Report, 1923*, p. 23.
[2] Art. ix, sec. 2.
[3] Art. iv, sec. 91.
[4] Art. xvi, sec. 5.
[5] Art. xiii, sec. 1.
[6] Art. x, sec. 4.
[7] Art. vii, sec. 4.
[8] Art. ix, sec. 3.
[9] Art. xi, sec. 1.
[10] Sec. 170.

Louisiana,[1] Minnesota,[2] Missouri,[3] Nebraska,[4], New Mexico,[5] North Carolina,[6] North Dakota,[7] Ohio,[8] Oklahoma,[9] South Carolina,[10] South Dakota,[11] Utah,[12] Washington,[13] and Wyoming.[14] The state legislature may exempt public property from taxation in Florida,[15] Georgia,[16] Indiana,[17] Nevada,[18] Oregon,[19] Pennsylvania,[20] Tennessee,[21] Texas,[22] and West Virginia.[23] In the latter group of nine states the exemption apparently depends upon the discretion of the legislature, except for federal property, where the granting of exemption is purely *pro forma.*

How the problem presents itself in New York, and the general outline of one attempt to solve the problem, has been thus presented:

There is at present considerable agitation in the state over the present system of taxation of lands and improvements owned by the state, and also criticisms in many of the towns in the Adirondack preserves as to the amount of assessments allowed by the Comptroller on forest reserve lands. Some of the assessors complain that as the lands of the state cannot be assessed on the same basis as lands of private owners in the same tax district they are unable to comply with the Tax Law which requires the assessment of all property at full value. The state has acquired and is acquiring vast tracts of land in every part of the state, for its institutions and for other public improvements. In some towns the acquisition of the land by the state and its subsequent exemption from taxation makes the town almost without resources for current expenses of government.

In the proper administration of the affairs of large cities and in the better protection of the health of their citizens, many cities, towns and villages have found it necessary to go outside of their corporate limits in the building of water works, sewers, and other public necessities. There is at present a vast amount of litigation between the City of New York, for instance, and the

[1] Art. x, sec. 4.
[2] Art. ix, sec. 1.
[3] Art. x, sec. 6.
[4] Art. viii, sec. 2.
[5] Art. ix, sec. 3.
[6] Art. v, sec. 5.
[7] Art. xi, sec. 176.
[8] Art. xii, sec. 2.
[9] Art. x, sec. 6.
[10] Art. x, sec. 4.
[11] Art. xi, sec. 5.
[12] Art. xiii, sec. 3.
[13] Art. vii, sec. 2.
[14] Art. xv, sec. 12.
[15] Art. ix, sec. 1.
[16] Art. vii, sec. 2, par. 2.
[17] Art. x, sec. 1.
[18] Art. x, sec. 1.
[19] Art. ix, sec. 1.
[20] Art. ix, sec. 1.
[21] Art. ii, sec. 28.
[22] Art. viii, sec. 1.
[23] Art. x, sec. 1.

several cities, towns and villages along the Hudson, in which the water supply of the city has its source. The questions involved are not only the right to assess the property, but also the manner and extent of the assessment.[1]

If, as in most states, the state tax rate is applicable equally to all property, the shrinking of the tax base by the exemption of municipalized public utility property affects chiefly the rates of local taxes, for the state tax is comparatively low. The diminution in local revenue thus occasioned must be made up by making the tax heavier on the part not yet municipalized, unless the utility yields a surplus equal to the taxes that would have been paid were the property privately owned. The diminution in local tax revenue due to exemption indicates a shift in the burden of the cost of this service from the ratepayers to the taxpayers. But if the enterprise is equally efficient under public and private operation, the freedom from taxation should be reflected in lower rates or higher surpluses. If the taxpayers and the ratepayers concerned are resident in the city, this shift may not mean a great deal one way or the other, unless the distribution of the taxable property differs from that of the use of the service.

But if, as in California, the local property tax on public utilities is replaced by a tax on the gross receipts, all of which is collected and retained by the state treasury, the result is quite different. By municipalizing their public utilities, cities deprive the state treasury of one of its most important sources of tax revenue. The local relief from taxes should be reflected in lower rates for the services. Thus the local patrons of the service are benefited at the expense of the state treasury. This would tend to make the burden of taxes still heavier on the utilities not yet municipalized and thereby unfairly to encourage municipalization. That the tax administrators in California are aware of this problem is indicated by statements in successive reports of the California State Board of Equalization. For example, in 1920,

attention is called to the increasing tendency of municipalities to acquire and operate power and light plants, street railways, and other public service enterprises, thus cutting off a not inconsiderable amount of state revenue; with the probability that other and larger items may be so diverted, causing losses sufficient to make other sources of revenue necessary.[2]

[1] *Report of New York Tax Commission, 1915*, pp. 20, 21.

[2] *Report for 1919–20*, pp. 5, 6.

Still, the board offers no solution. The Committee on Tax Exemption of the National Tax Association, facing this question, would not accept the New York solution of continued taxability of publicly owned utilities, but appears to hope for a solution in "a readjustment of territorial jurisdiction and (or) of the functions of government to cover such cases."[1]

Other and quite different suggestions appear elsewhere. The Board of State Tax Commissioners of Michigan, for example, believes "that municipally owned public utility should be subject to the same tax burden as that owned by a corporation or an individual, especially upon any property owned by a municipality but situated in another taxing district."[2] Such relief as may come to the local patrons, the board believes, is more than offset by the extra burden upon the general taxpayer.

It would appear from the foregoing that the question of taxation of public property can hardly be summarily dismissed, by saying that, being publicly owned, it must of course be exempt. Much public property devoted to semicommercial purposes might properly be taxed. The extent to which public property is concentrated is material. If it were distributed proportionately to taxable property no serious objection could be made. Such is largely true of elementary- and secondary-school buildings; but it is often not true of state and federal properties. The presumption must be that, in the interest of simplicity, such property should be exempt. The "state should not tax itself" except for good reason. Taxation of public property could, therefore, be advocated only on these three grounds: first, that there is considerable concentration of exempt property; second, that such concentration produces discrimination in tax burdens on local taxable property; and third, that there are no adequate offsets to such discrimination.

That some exempt property is unequally distributed among taxing units is easily demonstrated. It has been shown that concentration is to be expected. That it exists is shown clearly in Table 33 which is based upon the investigations made by the New York Special Joint Committee on Taxation and Retrenchment. Not only does the table show wide ranges between the high and low ratios of exempt to taxable real property in the 59 cities and 932 towns investigated—practically

[1] *Proceedings, 1920*, pp. 235, 236.

[2] *Report for 1921–22*, p. 34.

all the cities and towns in the state—but it also shows that the variation in the ratios is much wider for the towns than for the cities. That means that the smaller the taxing unit, the greater the probability that

TABLE 33

CITIES AND TOWNS OF NEW YORK STATE CLASSIFIED ACCORDING TO THE RATIO OF THEIR EXEMPT TO THEIR TAXABLE REAL PROPERTY, 1925*

Ratio of Exempt to Taxable Real Property (Per Cent)	Cities		Towns	
	Number	Percentage of Total	Number	Percentage of Total
0–4.99	3	5.1	335	35.9
5–9.99	5	8.1	296	31.8
10–14.99	20	34.9	148	15.9
15–19.99	11	18.6	62	6.7
20–24.99	10	17.0	27	2.9
25–29.99	3	5.1	10	1.1
30–34.99	1	1.7	10	1.1
35–39.99	1	1.7	8	0.9
40–44.99	1	1.7	8	.9
45–49.99	2	3.5	2	.2
50–54.99	1	1.7	5	.4
55–59.99	....	....	4	.4
60–65.99	1	1.7	2	.2
65–69.99	....	....	1	.1
70–79.99	....	....	1	.1
80–89.99	....	....	6	.5
90–99.99	....	....	1	.1
100 and over	....	....	6‡	0.5
Total	59†	100.0	932	100.0

* Based upon data in Special Joint Committee on Taxation and Retrenchment, *Tax Exemption in the State of New York*, pp. 47, 64.

† City of Sherrill not reported.

‡ In the six towns with ratios of exempt to taxable real estate of 100 per cent or over, the ratios and the institution, the exemption of whose property might explain the high rates, were as follows: Providence, 101 per cent (tuberculosis hospital); Macedon, 119 per cent (canals); Gaines, 133 per cent (bridges, docks, and ferries); Waterford, 178 per cent (canals); Highlands, 426 per cent (West Point Military Reservation); and Dannemora, 438 per cent (state penitentiary).

the exempt property is either a very small or a very large percentage of the taxable property. Thus, of the 59 cities reported, only 3, or 5.1 per cent, had ratios of exempt to taxable property lower than 5 per

cent, while of the 932 towns, 335, or 35.9 per cent, had ratios below 5 per cent. At the other end of the scale, only 2 cities had such ratios above 50 per cent, while, of the towns, 26 had ratios in excess of 50 per cent.

The data suggest a remedy for the ill effects of concentration, if any exist; namely, the enlargement of the taxing units. That remedy is needed even more strongly for reasons of greater economy in public administration.[1] If evils exist in the concentration of exempt property, publicly or privately owned, they can be cured, in part at least, without resort to the questionable practice of taxing public property.

On the second point, relating to the effects of such concentration, the case against exemption is often regarded as proved when the concentration is demonstrated. A relatively high ratio of exempt to taxable property in a taxing district is accepted without question as proof that there is a high local tax rate. Such is the assumption made in a spirited treatise dealing chiefly with Massachusetts exemptions.[2] The assumption is also implicit in a study sponsored by the Westchester County (New York) Chamber of Commerce in 1922.[3] The position taken is that, since a great variety of charitable, eleemosynary, scientific, and religious institutions have found it expedient to move away from the high land values in New York City to the more desirable residential area of Westchester County, and since many of these institutions render services whose benefits are state-wide, or even world-wide in their benefits, the taxes on taxable property in Westchester have become unduly heavy.[4] There are, however, no statistical data presented to show that the taxes are actually higher in Westchester than elsewhere, though they may be.

The investigation of the New York Special Committee on Taxation and Retrenchment shows that, as a matter of fact, there is no such correlation between local tax rates and the respective ratios of exempt

[1] Cf. Franklin D. Roosevelt, *Proceedings*, XXII (1929), 319–27.

[2] Edith Hamilton MacFadden, *The Next Question* (1927).

[3] *Tax Exemptions on Real Estate*. The author of the principal part (Part I) of the treatise is Philip Adler of Columbia University. He presents a study of the origin of exemptions of charitable and religious institutions.

[4] It was probably with this situation in mind that the New York Tax Commission stated: "Small or rural communities, especially those bordering on great cities, find the exemption matter a great burden, as the cities locate so many of their eleemosynary institutions just over the border" (*Report, 1923*, p. 24).

to taxable property as is usually assumed. In the words of the Committee:

One of the questions that it was desired to answer was whether or not tax exempt real property was related to the tax rate paid by taxable property. If the presence of exempt property affects the cost of government to any appreciable extent, then we should expect to find high rates in cities with large percentages of exempt property and low rates in cities with small percentages of exempt property.

Table XIIIA shows that there is practically no indication of any relationship between these two variables. High tax rates must be explained upon other grounds than the presence of a large proportion of exempt property and, conversely, there is no warrant in assuming that a large amount of exempt property results in a high tax rate in the cities of New York.[1]

This comment relates to the cities of New York State. The relationship of high tax rates to high exemption ratios might be supposed to be clearer in the towns than in the cities, since the dispersion of the ratios of exempt to taxable property is greater. But the Committee, finding little or no such relationship, even for the towns, thus summarized its conclusions: "Therefore it seems clear that the amounts of tax exempt real property in the towns of New York State have very little if anything to do with the true rates at which their property is taxed."[2]

The Committee naturally felt bound to present an explanation of this unexpected finding. The explanation, in general, is threefold: first, the exempt institutions are seldom locally supported; especially is this true of state institutions and endowed institutions; second, the presence of these institutions does not involve local governmental costs in proportion to the value of property, e.g., West Point Military Reservation and the state penitentiary; and, third, they confer some local incidental benefits such as "bringing trade to the town" and "giving employment to residents."[3] It is a perfectly rational explanation that these benefits are capitalized so that the tax rate is not increased, provided the incidental benefits are substantial and the extra local governmental cost not excessive.

To the extent that there is no clear relationship between ratios of

[1] *Ibid.*, pp. 33, 52, 53.

[2] *Ibid.*, p. 35. See also Table XXIIA, pp. 68, 69, of the Committee's report.

[3] *Ibid.*, pp. 72–80.

exempt to taxable property and the true tax rates, it appears that the case for exemption of public property is sustained. If there are cases in which the local increase in governmental cost caused by the presence of exempt property is substantial, in so far as this condition cannot be remedied by an enlargement of the taxing district, there appears to be a need for some sort of relief. But that relief should be granted in some other way, if possible, than through taxation of public property, because such taxation involves certain grave administrative difficulties. There is, for example, the problem of assessing state property for local taxation. It is perfectly obvious—the experience of New York State bears out the view—that, if the local assessor were entrusted with the assessment, public property would be overassessed. On the other hand, central assessment of state property, and allocation of the valuation for local taxation, would not be locally satisfactory. While these difficulties are not insuperable, they should not be incurred needlessly.

V. EXEMPTION OF PRIVATE PROPERTY

While the presumption is that public property should be exempt, the presumption is equally strong that private property should be taxed or show good cause for exemption. There are fiscal, economic, and political reasons for not granting or continuing exemptions that cannot meet the test of a good cause. Doubtless, numerous present exemptions cannot meet the test. And surely, if all the bills for exemptions introduced in every state legislature were to become law, the result would be fatal to the tax system of every state. A statement from the New York Special Tax Committee on Taxation and Retrenchment, relating to tax exemption bills in New York, will illustrate the danger and emphasize the proposition that existing and proposed exemptions alike should be carefully considered:

> If all the tax exemption bills presented to the legislature during the past three years had been enacted, they would have all but obliterated the state tax system. The sum total of the revenue which would have been lost through the passage of these bills is $423,780,000. Practically all of these bills were defeated in the legislature. Those enacted into law carried a temporary reduction of revenues totalling $42,512,000 and permanent reduction of $8,600,000 annually.[1]

[1] *Op. cit.*, p. 14.

A valid case for exemption should have at least three aspects. In the first place, the property seeking exemption should be used in rendering a service affected with a bona fide public interest. This service should either supplement the same service rendered by the state, as in providing schools or other educational facilities, or should be a service in which, though the state does not directly engage, it has nevertheless a genuine interest. Religious institutions are in the United States the most conspicuous examples of this class of exemptions, though it is vigorously denied by many that the state has a sufficient interest therein, and many even would go so far as to assert the interest of the state in the suppression of at least some of the now existing institutions.

In the second place, the service deserving such subsidy must be incapable of being fostered adequately on a commercial, *quid pro quo* basis. In a sense, all legitimate economic activities are affected with a public interest. Transportation is a necessary public service, but it is not, ordinarily, necessary to subsidize it. The state has no interest in extending it beyond the point where the beneficiaries will pay for it. But in education, charitable, preventive, and research activities, the *quid pro quo* basis is inadequate for the best public interest. If this were not true, the enormous annual appropriations for elementary, secondary, and higher educational institutions could not be justified.

In the third place, the tax exemption method of subsidizing these services should not be used unless it can be done without serious disproportion between the benefits and costs to localities interested. A local taxing district should not be required to absorb the loss of revenue in exempting property whose use does not confer a reasonable local benefit.

In order to insure the recurrent consideration of the justification of exemptions, they should not be regarded as a vested right, and the privilege should not be incorporated in state constitutions or in special charters having the force of irrevocable contracts.

A. RELIGIOUS INSTITUTIONS

For the property of religious institutions the test is the presence or absence of a public interest. Religion cannot be sold over the counter as are groceries. And property of religious institutions is in this country so widely distributed as to preclude any appreciable effect upon local

tax rates. The benefit is partly localized. Moreover, the American state is barred from subsidizing religious institutions in any other way.

Religion is not a rational matter, in one sense, hence its value is incapable of being reduced to a common denominator. All sorts of reasons are advanced for and against exemption of property devoted to religious purposes. The Special Commission of Massachusetts appointed in 1874 "to inquire into the expediency of revising and amending the laws relating to taxation and exemption therefrom" vigorously and lengthily defended exemption of religious institutions:

> The advantage of having these houses thus employed are, in the eyes of the state, somewhat different from the advantages sought by the individuals who thus employ them. To the individual, religion is an end which he seeks for his own sake, but to the state, it is a means for the promotion of its highest interest. The state uses religion and favors its advancement, because it is a means of civilization—because it helps the state forward in its own line of highest progress. Our own state constitution aptly expresses this when it declares that "the public worship of God, and instruction in piety, religion and morality, promote the happiness and prosperity of the people and the security of a republican government."[1]

There was a minority opinion, not opposing the principle of exemption, but against certain abuses; the minority opinion would limit the exemption to $25,000 for each house of religious worship, on the ground that rich churches did not need the subsidy.[2]

In the report of the Maryland Special Tax Commission of 1888, tax exemption of religious institutions was attacked on the ground that it fostered extravagance and saddled others with the cost thereof. Thus, a wealthy Quaker, opposed as a matter of conscience to ostentatious display, would be required to pay taxes to support the improvident Methodist in his extravagant church buildings. This was held to violate the sacred principle of religious liberty. Yet the commission, despite its fine-spun arguments, went only so far as to recommend that the exemption be limited to property actually used and necessary for the proper religious use.[3]

Modern controversy on the subject would not rise above the level of these reports. There would be some who would understand, as did the

[1] *Report, 1875*, p. 161.

[2] *Ibid.*, pp. 181–201.

[3] *Report*, pp. 68–72.

Massachusetts Commission, that the justification of exemption of property used for religious purposes must depend upon the extent to which these institutions subserve the "highest interests" of the state. Many would not see any such higher interests and would cavil at inconsequential details, as did the Maryland Commission. But in nearly all the states there would be agreement that the exemptions ought not to run without limits.

Churches are everywhere exempt; parsonages, generally, but only to a specified value in certain states. Colorado, for example, exempts parsonages to the extent of $3,000. Connecticut exempts bonds, mortgages, or invested funds of any church or ecclesiastical society not exceeding $10,000, but the total exemption to any one religious institution is not to exceed $20,000. Something of the care with which abuses are sometimes guarded against may be seen from the constitutional provision of California to the effect that

> all buildings and so much of the real estate upon which they are situated as may be required for the convenient use and occupation of said buildings, when the same are used solely and exclusively for religious worship, shall be free from taxation: *Provided*, that no building so used which may be rented for religious purposes and rent received by the owner thereof, shall be exempt from taxation.[1]

The New York Committee on Taxation and Retrenchment briefly stated its views as follows:

> The exemption of the property of churches and the clergy as well as of societies organized for moral and mental improvement seems to be one of purely local concern and benefit. Except where some denomination takes up more than a disproportionate share of a municipality's taxable property, it does not appear that injustice is done.[2]

This is too complacent. There are opportunities for abuse of the exemption privilege in connection with property devoted to religious purposes. There are wealthy institutions which have acquired valuable land which they hold, by reason of tax exemption, at low cost, and for the acquisition of wealth.[3] But a worse feature is that individual per-

[1] Art. xiii, sec. 1½.

[2] *Op. cit.*, p. 76.

[3] Cf. *The Nation*, Vol. CXXVIII (May 15, 1929), under the caption "Saintly Profiteering."

sons may share the illegitimate gain. For example, the owner of a parcel of property may borrow on it all that can be had and then sell it to some exempt institution, religious or otherwise, for a sum greater than could have been had through sale to a person to whom the property would be taxable. The taxable seller and the exempt buyer may share the capitalized value of the tax exemption. The objection to exemption of property devoted to religious purposes rests, then, not so much upon the proper use but upon the abuses of which it is capable.

B. EXEMPTIONS FOR EDUCATIONAL PURPOSES

This class of property is used for a public purpose, or one which the public can approve—does, in fact, approve to the extent of spending vast sums of money and vaster amounts of energy each year. Such encouragement as tax exemption gives may often be justified on the ground that private schools supplement the state services. In general, a state will not undertake a function until the element of general public benefit is tolerably apparent and affects a considerable part of the people. The private institution often functions as the pioneer. When later the public benefits have become sufficiently established, the state may take over the function. Such has been the general development in the field of education, and there is no reason for supposing that such differentiation will not continue. Tax exemption is in this case only a reasonable encouragement.

The undesirable effects of tax exemption to educational institutions are not serious. For the most part there is relatively little concentration of property. In so-called educational centers, especially if they are small cities, as are the sites of many state universities and private schools, considerable property is withdrawn from the local tax base, and the expenditures in such places are probably also increased somewhat by reason of the fact that the schools are located there. It is rare, however, to find a community which will not resist the removal of any such enterprise from its territory, even though it pays no local taxes.

The limits on the exemptions apply to nonpublic schools only. In many states there are limitations on the area of real estate that may be exempt to any one school. In Oregon the maximum is 30 acres; in North Dakota, 40 acres; while in Washington it is only 10 acres, with the further restriction that the institution must be open to all on equal

terms. The provision is common that such property must not be used for profit. And sometimes it is specified that the entire institution must be devoted exclusively to educational purposes. An example of liberal restrictions on the exemption is Indiana, which exempts 320 acres, and not to exceed 40 acres for every building used for educational, literary, scientific, or charitable purposes.

Other states follow the practice of exempting only such private educational institutions as are separately and specifically named in the acts of the legislature or the constitutions. Those not named are taxable. The constitution of California,[1] for example, exempts "All property now or hereafter held in trust for the founding, maintenance, or benefit of Leland Stanford University . . . ., belonging to the California School of Mechanical Arts, ... to the California Academy of Sciences, and . . . . to the Cogswell Polytechnic College." By statutory provision, Connecticut exempts "the funds and estate of Yale University, Sheffield Scientific School, Trinity College, and Wesleyan University, but not real estate the annual income of which exceeds $6,000."

A few states extend this to cover not only the property of the enterprises but also the property of the officers of the institution; and sometimes to cover the property of such satellites as college fraternities. Thus in Rhode Island "estates and persons of the president and professors of Brown University and their families to an amount not exceeding $10,000 for each officer" are exempt. The property of college fraternities is exempt in most states by special statutes or on the general ground that they are educational institutions.

Where private libraries are free and open to the public they are usually exempt. In many states this is not specifically stated in the constitution or statutes. The private libraries may then be exempt under the rule that non-profit-making educational associations are exempt. Arizona, Delaware, Maine, Massachusetts, Nebraska, Nevada, North Dakota, South Carolina, South Dakota, and Tennessee do not state the exemption specifically, yet freely extend it. On the other hand, strictly private, especially professional, libraries, are not always exempt. Vermont exempts "public" and "free" libraries, and also "private" and "professional" libraries. Family libraries are ex-

[1] Art. ix, sec. 10.

empt in West Virginia and works of art and private libraries in Mississippi. But this is not the rule. Where exemption is granted it is partial, and usually narrowly limited. In Wisconsin the exemption applies to "private libraries" only to the extent of $200. Kansas exempts the family library and books to the amount of $50. The family Bible and all school books are exempt in Wyoming. When not conducted for profit, literary and scientific societies are frequently but not always exempt. Such societies perform a necessary function which the state is not likely to undertake, because the benefits are not generally recognized. There appears to be the same reason for encouraging such societies by tax exemption as for fostering inventions and literature by patents and copyrights.

It is certain that possibilities for abuse lurk in tax exemption of property granted to educational uses. Elementary and secondary education is now so abundantly provided at public expense that the justification of exemption can rest but insecurely upon the need for supplementary private educational facilities of a parochial nature. If private instruction of a kind more exclusive than that offered by the public schools is desired, it should bear its full cost, including taxes. In higher education too, there is an exclusive form which needs no subsidy. But, in general, in advanced education and especially in scientific research, which is very expensive yet very necessary, there is legitimate need for tax exemption, provided it is properly confined to the property actually used for educational and research purposes.

C. CHARITABLE INSTITUTIONS

Institutions of this type are very difficult to classify. The purposes for which they exist vary all the way from caring for orphan children to maintaining homes for the aged; and they attempt, between these two extremes, to alleviate every ill that may beset a human being. Some charge for their service, while others render it gratuitously. Some accept persons without distinction, while others limit their inmates according to age, race, creed, or wealth. They are usually exempt unless they are profit-making.

Experience has shown the dangers in providing too liberally at public expense for at least certain forms of charitable relief. There appears to be no good reason that private agencies should not be sub-

sidized when they relieve the state of a part of such expense, even when the relief provided is of a higher grade than that provided by the state. The principal difficulty consists in drawing the line, in law and practice, so as to include all deserving cases and to exclude all others. The definition of charity is a difficult one, and one that varies with changes in need for relief. There is the danger that an association may perform incidentally some charitable service, and then claim and be allowed exemption on all its property. Thus, in Wisconsin, a woman's club sought, but was properly denied, tax exemption on the ground of having given a small sum for the training of relief workers.[1] On the other hand, there are cases where subsidy, through tax exemption or otherwise, would be legitimate, though it is not now allowed. Thus the California Special Tax Commission considered the evidence of the Southern California Hospital Council. The recommendation by the commission of tax exemption for non-profit-making hospitals was denied: "It appears that California is one of only three states in which such hospitals are compelled to pay taxes, and an appealing case is made for more liberal treatment." Yet the commission felt that "exemption should be curtailed, rather than extended." It suggested as an alternative "more liberal public grants and payments where the activities of these institutions clearly have the effect of caring for cases which would otherwise be a charge on public funds."[2]

The suggested remedy, while far from being free from objections, is more flexible than a general exemption. It has the advantage of relieving the assessor from the difficult task of interpreting and administering the exemption laws. But it presents the equally difficult task of deciding when and to what extent cases cared for "would be a charge on public funds." In other words, it is extremely difficult to decide when charitable activities are so "affected with a public interest" as to entitle them to subsidy of any kind.

D. EXEMPTIONS FOR OTHER PURPOSES

The property of fraternal and benevolent societies is exempt only when specifically authorized. It is doubtful in many cases, to say the least, whether the exemption is justified. For the most part, these organizations do not subserve the "highest interests" of the state.

[1] 221 N.W. 375.

[2] *Final Report*, *1929*, p. 90.

The state performs directly most, if not all, of the functions necessary to protect and defend with reasonable security our property and lives. For that reason, most of the property devoted to the activities of the army, the navy, the state militia, and the local police and fire forces is publicly owned. Only rarely, as in the case of some fire companies, is any private property involved.

It is common for a state to show gratitude, honor, or encouragement to certain classes of persons who have performed or are performing special services. Soldiers and sailors incur special risk of life in case of war, and the public sometimes expresses its gratitude in the form of tax exemption. Ministers of the gospel and others whose services are deemed to be specially meritorious, and who are frequently underpaid, are sometimes thus favored, within limits. New Hampshire exempts—and the provision is typical[1] of many states—"Property to the amount of $1,000 of any soldier or sailor who served sixty days in the army of the United States during the War of the Rebellion and was honorably discharged, and the wife or widow of the same, provided the aggregate value of the property is not over $3,000." Exemption is often extended to the property of associations, for example, the Woman's Relief Corps, or the Daughters of the American Revolution. The exemption also extends usually to such organizations as the Grand Army of the Republic, and to some institutions engaged in taking care of old soldiers and sailors.

E. MINIMUM EXEMPTIONS

A common though not universal cause of exemption is the disposition not to burden those whose property does not amount in value to a certain specified sum. To require a tax payment of those on the borderline of poverty might readily increase the burdens of the state disproportionately by throwing such persons on the public or private charity. Another reason is that in all such cases the amount of the tax will be small, and its collection may cause more annoyance than the amount of revenue warrants. This, at least, is true where the exemption is given only when the total value of property held does not exceed a specified minimum. It is less true if the exemption, or better, the de-

[1] Except that they are usually recent. The World War led to several liberal exemption provisions.

duction, is permitted regardless of how much property the taxpayer possesses.

There is a considerable list of producers' goods which are exempt: farming tools and utensils; mechanics' tools; family looms and spinning wheels; one sewing machine; fishing apparatus; seed grain; a limited amount of livestock and feed therefor. The exemption of this amount, usually limited either in quantity or value, is presumably intended to make the individual feel more secure, since he cannot, by forfeiture of taxes, lose his tools or other needed goods. The real effect is doubtful; and, since in most states the exemption is given regardless of the aggregate value of the taxpayers' property, much taxpaying capacity escapes; this results in a reduced tax base and a higher rate.

In a few states, notably in New England, the exemption does not apply except to those who, being old, crippled, or poor and dependent, are incompetent to pay. This condition of the taxpayer must be ascertained by the assessor or by some other local tax administrator before exemption or abatement is granted.

F. EXEMPTIONS FOR DEVELOPMENT OF INDUSTRIES

Another common cause of exemptions is the disposition of the state to establish or foster certain industries. This encouragement may take one of two forms: Exemptions may be granted either to non-profit-making associations engaged in encouraging such enterprises, or to property used in the industry itself. The exemptions sometimes given to agricultural associations, chambers of commerce, state or county fair associations, and granges are examples of this type. Many other organizations, with nearly equal propriety, might claim such exemptions. Among them are trade associations and trade unions, to whom the exemption does not usually apply. The property thus exempt is not in the aggregate large. Nevertheless, the claim of such associations to tax exemption is not especially strong. And it would appear that specific aid is preferable, being more direct and better subject to control.

The second type of exemption is perhaps less defensible, but more widespread. It occurs in many states and is not confined to any one industry. Agricultural products, livestock, seed grain, feed for livestock, growing crops, are examples of exemption of property made with a view to foster agriculture, or perhaps to win the farmer's vote.

In a number of Western states it is provided that certain improvements on farming land, such as fencing, plowing, seeding, planting of trees, are not to be counted in determining the value of the farm for taxation purposes. To induce settlers to come to new regions, exemptions are often granted from taxation for a period of years after the patent from the United States has been secured.

Exemption from taxation for a period of years is often given on mining claims. Irrigation works are often exempt when used by the owner or by a co-operative association. Manufacturers' and merchants' stock is frequently exempt; sometimes it is reached by special taxes in lieu of the property tax. In a few states the constitution authorizes the legislature to permit municipalities to extend exemptions to manufacturing enterprises with a view to inducing them to locate in the city.[1] In former years it was a common practice to grant tax exemption to railroads for a period of years as an inducement to extension; some constitutions still contain such provisions; and the taxation of the railroads in Illinois and Minnesota is still shaped to a degree by these early contractual exemptions. In a few seaboard states, where the development of a merchant marine has been a possibility, exemption has been granted to ocean-going vessels.

A current example of exemption "for encouragement" occurs in New York. The housing shortage after the war was peculiarly acute in that state and led to a law exempting from local taxes for a period of years, subject to approval by the local authority, new buildings (except hotels) planned for dwelling purposes. Not all the local units in New York elected to exempt such buildings, but New York City and other large cities did. A great deal of construction went on under the exemption.[2] What the net result has been is uncertain. Obviously not all building would have ceased had the exemption not been granted. That any benefit has resulted is vigorously maintained and denied.[3] Offsetting any gain from speeding up construction is the increased tax

[1] A revival of the practice of extending exemption to induce the location of industries may be seen in the New England states, but especially in the states of the Old South. Cf. J. P. Jensen, *Tax Exemption as a Means to Encouragement of Industry*, Bulletin No. 10 (Bureau of Business Research, University of Kansas).

[2] Table 30, *supra*.

[3] For an appraisal of the effect see *United States Monthly Labor Review*, June, 1924, p. 150.

rate on nonexempt property. The law has been extended, however, beyond its original time limit.

Tax exemption for industrial encouragement, like a protective tariff, is a device of local, mercantilist commercial policy. It must be justified or opposed on the same grounds as a tariff. On economic grounds the presumption is against both. The principal claim for exemption must be the "infant industry" argument. In the industrially developing southern states, there are probably valid bases for exemption on that ground, despite the hazard that such a policy, adopted in one state, must tend to lead others in self-defense to adopt it also. In that respect, the industrial exemptions are like national tariffs, competitive armaments, and competitive advertising. In order to guard against abuses of exemptions of this type, if they must be granted, the following restrictions should be observed.[1]

1. The exemption should not be perpetual. That is a part of the "infant industry" argument. Time limits are characteristic of the provisions of the industrial exemptions witnessed during the past decade in the states of the "Old South." Thus in 1930, the electors of Florida ratified a constitutional amendment sanctioning an exemption for fifteen years for companies generating hydroelectric power, no exemption to continue beyond 1948. There is objection to incorporating even a temporary exemption in the inflexible fundamental law.

2. The exemption should be limited in area, should perhaps be a matter of local option, and should be confined to the taxes of the areas that are to benefit. The state and perhaps the county should not lose revenue on account of exemptions that may benefit only one small taxing district.[2]

3. Exemptions should apply only to the operative property used by enterprises whose encouragement is economically justifiable. While this rule is difficult to observe, it is important if indiscriminate exemptions are to be avoided.

G. UNOFFICIAL OR ILLEGAL EXEMPTIONS

In conclusion, it is important to emphasize that the law and the practice of exemptions of all kinds, but especially of private property,

[1] Cf. Jensen, *op. cit.*

[2] The New York housing exemption does not apply to state and county taxes.

are often far apart. Thus, in Connecticut, the tax commissioner has repeatedly called attention to the prevailing practice of illegal exemptions. He reports that from 1914 to 1918 an increase of 19 per cent occurred in the special exemptions of the class voted by the towns and allowed by the assessors, chiefly to industries which the towns desired to encourage. Most of these exemptions are illegal, despite the fact that Connecticut permits more elaborate exemptions than any other state.[1] The American assessor reflects the viewpoint of his community and will temper the tax laws to realize what is wanted or will be tolerated. *De facto* exemption prevails more or less everywhere because the assessor refuses to assess certain types of taxable property. Or he may assess property which the community or some members thereof wish to favor at a differentially low ratio to true value. Indeed, it is certain that vast amounts of taxable personal property go untaxed because it is not the custom to assess it. While it is true that such practices frequently serve to make the property tax tolerable, the practice is not commendable.

[1] *Quadrennial Statement by the Tax Commissioner of Property Exempted from Taxation, 1917–1918*, p. 227.

CHAPTER VI

THE UNIFORMITY RULE

The uniformity rule requires that all of a taxpayer's property situated in the same taxing district shall be treated alike. The tax must be proportional to the value of all the property taxable.[1] It is the purpose now to test the validity of the assumption that all taxable property is homogeneous, an assumption which underlies the rule that it shall all be treated uniformly. Such uniformity of taxation requires uniformity both of the rate and of the valuation.

Unfortunately the tax terminology of legislators and administrators is confused. *Tax*, *levy*, *assessment*, *rate*, *valuation*, and other terms are often used interchangeably. The terms necessary for the following paragraphs are few; they may be defined briefly according to the processes involved. The state *levies* a tax. The *tax* is the contribution made by the taxpayers. The *levy* is the fiat of the legislature imposing the tax. First, all the taxable property must be *listed*, that is, an inventory must be taken. Second, the property must be *appraised*, *valued*, or, more generally and more familiarly, *assessed*, so that there may be known, not only on how much property, valued in dollars and cents, each taxpayer must pay, but also the value of the total taxable property in a district. The total value of all the taxable property is the *base*. More often, it is called the *valuation*, or the *assessed valuation*, to distinguish it from the market or exchange value. By dividing the sum of money which the state has decided must be raised by the base, the *rate* is obtained. By multiplying the assessed value of the taxable property of each taxpayer by the rate, the amount of the tax he must pay is obtained. The sum of the contributions of all the taxpayers is called the *yield* or *revenue*, and would be the sum which the district set out to raise, if all the taxes levied were collected.

[1] The feature of the property tax discussed in this chapter is the uniformity required by law. That such uniformity is far from realized will appear in following chapters.

I. UNIFORMITY AS TO RATE

Naturally enough, statutes and constitutions say little about the rate of taxation. In fact, the laws pertaining to tax rates are chiefly concerned with limtations of the rates of taxes that may be imposed. The reason the statutes and constitutions do not often deal with relative rates is doubtless that discrimination in the rates among taxpayers within the same tax jurisdiction is regarded as obviously unjust, and generally impracticable.

Some states, however, require a uniform rate. The constitution of Indiana requires that the "general assembly shall provide by law for a uniform and equal rate of assessment and taxation."[1] Provisions of equivalent effect occur in the constitutions of Nevada,[2] Oregon,[3] South Carolina,[4] Utah,[5] and Washington.[6] The constitutional provision of Montana, to the effect that "the legislative assembly . . . . shall levy a uniform rate of assessment and taxation,"[7] is awkward and ambiguous.

A different type of provision requires designated species of property to be taxed at the same rate as other property. The constitution of Alabama requires that "the property of private corporations, associations, and individuals of this state shall forever be taxed at the same rate."[8] Almost of the same tenor is the requirement of the Kentucky constitution that "all corporate property shall pay the same rate of taxation as is paid by individual property."[9] Mississippi[10] has an equivalent provision. Not unlike in effect, although the term "rate" is not mentioned, is the Arkansas requirement that "no one species of property from which a tax may be collected shall be taxed higher than another species of equal value."[11] Tennessee[12] and West Virginia[13] have equivalent provisions. Uniformity of the rate of taxation is a necessary

[1] Art. x, sec. 1.

[2] Art. x, sec. 1.

[3] Art. ix, sec. 1.

[4] Art. x, sec. 1.

[5] Art. xiii, sec. 3. Classification authorized in 1930.

[6] Art. vii, sec. 2. Classification authorized in 1929.

[7] Art. xii, sec. 1.

[8] Art. xi, sec. 217.

[9] Sec. 174.

[10] Sec. 181.

[11] Art. xvi, sec. 5.

[12] Art. ii, sec. 28.

[13] Art. x, sec. 1.

consequence of the requirement that the tax shall be proportional to the value of the property of the taxpayer. This provision for proportionality of the tax, necessitating a uniform tax rate, is common in the state constitutions, varying surprisingly little even in form.

The Alabama constitution, adopted in 1901, provides that "all taxes on property in this state shall be assessed in exact proportion to the value of such property."[1] Equivalent requirements are found in the constitutions of Arkansas,[2] Georgia,[3] Illinois,[4] Michigan,[5] Mississippi,[6] Missouri,[7] New Jersey,[8] North Carolina,[9] Ohio,[10] South Carolina,[11] Tennessee,[12] Texas,[13] Utah,[14] Washington,[15] West Virginia,[16] and Wyoming.[17]

II. UNIFORMITY AS TO VALUATION

The tax will be proportional to the value of property if all property is assessed at its full value and a uniform tax rate is used. But proportionality might be attained equally well if the property were assessed uniformly at, say, 50 per cent of its actual value. To raise the same sum of money, it would be necessary only to double the rate. But if one item of property is assessed at 100 per cent and others at 50 per cent, the tax will necessarily be nonproportional. Most state constitutions do not state specifically that the assessment must be made at 100 per cent or any other specified percentage. The requirement of valuation at 100 per cent is rather thought to be implied in the common requirement of proportional taxation. A few states, however, require valuation at true worth.

The New Jersey constitution requires property to be assessed for taxes "according to its true value."[18] Identical provisions occur in the

[1] Art. xi, sec. 211.

[2] Art. xvi, sec. 5.

[3] Art. vii, sec. 2.

[4] Art. ix, sec. 1.

[5] Art. x, sec. 3.

[6] Sec. 112.

[7] Art. x, sec. 4.

[8] Art. iv, sec. 7, par. 12.

[9] Art. v, sec. 3.

[10] Art. xii, sec. 2. Classification authorized in 1929, and provided for by statute in 1931.

[11] Art. iii, sec. 29.

[12] Art. ii, sec. 28.

[13] Art. viii, sec. 1.

[14] Art. xiii, sec. 2.

[15] Art. vii, sec. 1.

[16] Art. x, sec. 1.

[17] Art. xv, sec. 11.

[18] Art. iv, sec. 7.

constitutions of Mississippi[1] and North Carolina.[2] Michigan requires assessment of property at "its cash value"[3]; Oklahoma,[4] at "its fair cash value estimated at the price it would bring at a fair voluntary sale." Virginia requires that "all assessments . . . . shall be at their fair market value."[5]

In a few states, uniformity is required at a fractional part of full value, always by statutory provision. Alabama fixes the assessment value at 60 per cent of actual value of taxable property. In Arkansas the assessed valuation is determined by the state tax commission; since 1917, it has been fixed at 50 per cent. Prior to 1898, the valuation in Illinois was to be at full value; in 1899, the basis was 20 per cent; in 1909, it was to be at $33\frac{1}{3}$ per cent; then, in 1919, it was fixed at 50 per cent; and, in 1927, at 100 per cent of the full value.[6] In Iowa, it is 25 per cent for general property. In Washington, it is not to exceed 50 per cent. Since 1913 the assessors of New Mexico have been required to fix the value for taxation at $33\frac{1}{3}$ per cent. Prior to 1920, Nebraska assessed its taxables at 20 per cent; but in that year the new constitution required full-value assessments, and permitted the legislature to classify intangibles. Since 1923 North Dakota also technically has belonged in this group, as it requires all taxable property to be taxed on a valuation of 75 per cent, with farm buildings and improvements on farm land exempt. In Minnesota and Montana different ratios are used for different classes of property, under a system of classification.

In certain states, moreover, the requirement for a uniform level, at 100 per cent or below, extends only to the valuation for the state tax. At their option, local units may adopt some lower ratio, but this ratio must be uniform within each local taxing district. Thus, the New York Tax Commission determines each year a set of equalization ratios showing for each county in the state the percentage of true value at which property in the county was assessed, and on the basis of which, formerly, the valuation was revised for purposes of the state tax.[7]

One argument offered for fractional assessment is that it facilitates

[1] Sec. 112.

[2] Art. v, sec. 3.

[3] Art. x, sec. 7.

[4] Art. x, sec. 5.

[5] Art. viii, sec. 169.

[6] It is hardly necessary to add that these statutory changes are quite incompletely reflected in the actual assessment ratios.

[7] There is now no state property tax in New York.

legal assessment. It was argued that taxpayers would more readily and uniformly submit to an assessment at, say, 50 per cent than at 100 per cent. Assuming a fixed amount of revenue needed, the rate would be increased exactly in proportion as the assessment ratio was lowered. It is doubtful, however, whether fractional assessment actually has had the effect of making the taxes more nearly uniform among taxpayers or among the several types of property. The experience of Iowa, which probably has permitted fractional assessment longer than any other state, indicates that nothing can be hoped for from this device, for the "assessed" value is taken as 25 per cent of "actual" value, which is in practice somewhat less than 50 per cent of market value as obtained from actual sales.[1]

There are good reasons for equalizing the valuation among counties and for levying both state and local taxes on the same valuation. In the first place, to do so simplifies the clerical labor in extending the taxes on the roll. In the second place, a great variety of complications that might otherwise arise would be avoided. Where, for example, some central state board assesses railroad property and apportions it for local taxation, there is an insoluble problem of adjusting the variable local ratios to the necessarily uniform ratio for the centrally assessed property. Thus, in Floridá, the court has held[2] that a city using lawfully a higher assessment ratio than the rest of the state cannot raise the ratio of the centrally assessed property to the level of the local ratio.

In addition to a desire to secure uniformity in the assessments, there are other reasons for establishing at the outset the legal assessment ratio at the actual true value, and some difficulties in getting away from a lower ratio if such has been authorized. It was and is common to have salaries of local officials, as well as tax-rate limits and debt limits, expressed in terms of the assessed valuation. To raise the assessed valuation, as the law might require, would disturb a whole set of fiscal relationships. In general, no sooner is the actual low ratio legalized than the actual assessment ratio begins to descend to new and lower levels.

[1] Cf. R. W. Nelson and G. W. Mitchell, *Assessment of Real Estate in Iowa and Other Midwestern States*. "Iowa Studies in Business," Study X (Iowa State University, 1931).

[2] *Harkness* v. *Seaboard Airline Ry.*, 128 So. 264.

The general constitutional provisions for uniform valuation have been supplemented by statutes and administrative rulings. The simplest method is to require that property must be assessed at its "value," leaving assessors to interpret this term through actual valuations, and to assess property accordingly. In general, more detailed requirements have been provided by states in the hope of attaining proportional valuation. Florida, Missouri, and Ohio specify that the assessment shall be at "true value"; Nebraska, New York, and Wisconsin at "full value"; Iowa and South Carolina at "actual value." Michigan requires "cash value." Few new terms are employed in other states, but those mentioned are combined in various ways, without adding much in the way of clarity. Arizona, Colorado, Idaho, Illinois, Maryland, Montana, and North Dakota require the use of "full cash value," while New Hampshire requires assessments to be made at "full value in money." "Actual cash value" is to be used in Alabama, Louisiana, and Tennessee. California, Nevada, and Oregon specify "true cash value"; Delaware and North Carolina "true value in money." It is uncertain whether Kentucky, Massachusetts, and Oklahoma gain anything in usefulness by requiring assessments at "fair cash value." Possibly somewhat clearer is the provision of Georgia and Virginia requiring "fair market value." Texas and West Virginia use "true and full value" as the criterion; Washington "true and fair value"; and New Jersey "full and fair value." Rhode Island requires "full and fair cash value"; Arkansas "true and full cash value"; while Minnesota uses "true and full value in money." Still more elaborate is the Connecticut requirement for "present, true and actual valuation," as well as that of Wyoming, which specifies the use of "actual or full cash value."

Taken alone these requirements have slight significance. From mere words little can be expected; from care in administration and from standardization in the methods of valuation a great deal can be, and much has been, achieved. Unfortunately, until very recent years, the valuation may best be described as miscellaneous guess work.

Arkansas provides that the assessor is to use the "same standard of valuation for taxation as for other purposes," an injunction seldom obeyed. The value acceptable for assessment purposes is often said to be "that amount for which the property would be taken in the settlement of a just debt from a solvent debtor." The value must not be

the sum it would fetch in a forced sale, but the price it would bring when sold in the ordinary course of business. Elsewhere it is "the usual selling price where the property is." Or it is "the price it would bring in a private sale," or "at a voluntary sale," or "what it would sell for at a fair and bona fide sale by private contract." Also, frequently, the price "it will bring at a fair, free, and well advertised market," or "at a fair voluntary sale for cash" is specified.[1]

The valuation of taxable property is one of the critical steps in taxation,[2] because the valuation determines the taxpayer's burden, relative to that of his fellows. This appraisal is, par excellence, a matter of judgment, a problem of administration, rather than of elaboration of laws.[3]

III. THE ASSUMPTION OF HOMOGENEITY

The most fundamental assumption of the general property tax is that all property is homogeneous and may be so treated for purposes of taxation. When the general property tax was evolving, the classes of property were relatively few, and much alike. Land, buildings, farm implements, livestock, merchandise, and a small number of miscellaneous items, constituted the list. They were nearly all tangible and immobile.[4] The ordinary citizen was familiar with them, so that they could scarcely escape being listed; and, once listed, a valuation of reasonable accuracy was not impossible. Property likewise was not concentrated in the hands of a relatively small number of people. The owner and the possessor were usually identical, and the owner usually resided within the tax district. The assumed homogeneity of property no longer exists in fact, if it ever did. The heterogeneity is of vast sig-

[1] For tabulation of these and similar definitions cf. *Report of Virginia Special Tax Commission, 1911*, pp. 78 ff. Also National Industrial Conference Board, *State and Local Taxation of Property*, Table 2, pp. 96–102.

[2] For an elaboration of this proposition, see e.g., E. R. A. Seligman "The Importance of Precision in Assessments," *Proceedings*, II, (1908), 211 ff.

[3] The technique of appraisal will be discussed below, chap. xviii.

[4] Probably merchandise, especially that of itinerant merchants, was the principal exception. In finding and valuing certain classes of merchandise there was trouble from the start. In respect to merchandise the assessors were given far more elaborate powers, such as "doomage," and "valuation by common estimation," than existed in respect to other property.

nificance both in the theory and the administration of property taxation. There are obvious physical differences between a steamship and a quarter section of farm land, and between the "good will" of a corporation and its factory buildings.

The most troublesome difference is that which exists between representative property and the objects represented. A farm, for example, with its land, buildings, livestock, and equipment is tangible and substantive; but the mortgage thereon is only representative of the equity of the mortgagee in the farm. A railroad, with its right-of-way, tracks, terminal facilities, and rolling stock, is objective property; but the bonds and stocks representing these capital goods are property in a different sense. These two kinds of property are not species of the same genus. Confusion and injustice result from attempts to tax them both as if they were homogeneous.

This is not a new doctrine. The Massachusetts Commission of 1874, reporting in 1875, faced the same question:

> Upon no points have we found more decided differences than upon the questions connected with the taxation of mortgages. Some assert with great earnestness that mortgages ought not to be taxed at all, because they hold that if the mortgaged property is taxed, a tax upon the mortgage is clearly double taxation. Others maintain that while the mortgage should be taxed, the mortgagor should be assessed upon such part only, of the value of the land as exceeds the value of the mortgage. And yet others claim that aside from all question of double taxation, it is the better policy for a state to exempt mortgages in order that the loaning of money to the owners of the soil may be thereby encouraged, and the building of homes and the growth of agriculture, trade and manufactures promoted.[1]

To the three positions described by the Massachusetts Commission it is necessary to add a fourth, namely, that of those who cannot or will not grasp the representative character of mortgages and other intangibles, who insist that "every dollar is as good as every other," and that "all dollars are equally able to pay." Unsound as this position is, those who hold it have in general carried the day. For, although in Colorado secured debts are exempt by court decision, although Utah exempts mortgages by constitutional provision, and even though several states now classify intangibles and accord them differentially

[1] *Report*, pp. 86, 87.

the sum it would fetch in a forced sale, but the price it would bring when sold in the ordinary course of business. Elsewhere it is "the usual selling price where the property is." Or it is "the price it would bring in a private sale," or "at a voluntary sale," or "what it would sell for at a fair and bona fide sale by private contract." Also, frequently, the price "it will bring at a fair, free, and well advertised market," or "at a fair voluntary sale for cash" is specified.[1]

The valuation of taxable property is one of the critical steps in taxation,[2] because the valuation determines the taxpayer's burden, relative to that of his fellows. This appraisal is, par excellence, a matter of judgment, a problem of administration, rather than of elaboration of laws.[3]

III. THE ASSUMPTION OF HOMOGENEITY

The most fundamental assumption of the general property tax is that all property is homogeneous and may be so treated for purposes of taxation. When the general property tax was evolving, the classes of property were relatively few, and much alike. Land, buildings, farm implements, livestock, merchandise, and a small number of miscellaneous items, constituted the list. They were nearly all tangible and immobile.[4] The ordinary citizen was familiar with them, so that they could scarcely escape being listed; and, once listed, a valuation of reasonable accuracy was not impossible. Property likewise was not concentrated in the hands of a relatively small number of people. The owner and the possessor were usually identical, and the owner usually resided within the tax district. The assumed homogeneity of property no longer exists in fact, if it ever did. The heterogeneity is of vast sig-

[1] For tabulation of these and similar definitions cf. *Report of Virginia Special Tax Commission, 1911*, pp. 78 ff. Also National Industrial Conference Board, *State and Local Taxation of Property*, Table 2, pp. 96–102.

[2] For an elaboration of this proposition, see e.g., E. R. A. Seligman "The Importance of Precision in Assessments," *Proceedings*, II, (1908), 211 ff.

[3] The technique of appraisal will be discussed below, chap. xviii.

[4] Probably merchandise, especially that of itinerant merchants, was the principal exception. In finding and valuing certain classes of merchandise there was trouble from the start. In respect to merchandise the assessors were given far more elaborate powers, such as "doomage," and "valuation by common estimation," than existed in respect to other property.

nificance both in the theory and the administration of property taxation. There are obvious physical differences between a steamship and a quarter section of farm land, and between the "good will" of a corporation and its factory buildings.

The most troublesome difference is that which exists between representative property and the objects represented. A farm, for example, with its land, buildings, livestock, and equipment is tangible and substantive; but the mortgage thereon is only representative of the equity of the mortgagee in the farm. A railroad, with its right-of-way, tracks, terminal facilities, and rolling stock, is objective property; but the bonds and stocks representing these capital goods are property in a different sense. These two kinds of property are not species of the same genus. Confusion and injustice result from attempts to tax them both as if they were homogeneous.

This is not a new doctrine. The Massachusetts Commission of 1874, reporting in 1875, faced the same question:

> Upon no points have we found more decided differences than upon the questions connected with the taxation of mortgages. Some assert with great earnestness that mortgages ought not to be taxed at all, because they hold that if the mortgaged property is taxed, a tax upon the mortgage is clearly double taxation. Others maintain that while the mortgage should be taxed, the mortgagor should be assessed upon such part only, of the value of the land as exceeds the value of the mortgage. And yet others claim that aside from all question of double taxation, it is the better policy for a state to exempt mortgages in order that the loaning of money to the owners of the soil may be thereby encouraged, and the building of homes and the growth of agriculture, trade and manufactures promoted.[1]

To the three positions described by the Massachusetts Commission it is necessary to add a fourth, namely, that of those who cannot or will not grasp the representative character of mortgages and other intangibles, who insist that "every dollar is as good as every other," and that "all dollars are equally able to pay." Unsound as this position is, those who hold it have in general carried the day. For, although in Colorado secured debts are exempt by court decision, although Utah exempts mortgages by constitutional provision, and even though several states now classify intangibles and accord them differentially

[1] *Report*, pp. 86, 87.

low rates, the general rule remains that most, if not all, intangibles are legally accorded the same treatment as tangible property. But the question has not been settled. In New York, for example, the conflict over the taxation of intangibles ended by the adoption of a low, non-recurrent recording tax for domestic real estate mortgages, with the inclusion of the income from other intangibles with other income subject to the income tax, in lieu of taxation of the intangibles under the property tax.

The same issue was fought out in California. The State Board of Equalization had issued instructions to the effect that the debt secured by a mortgage was taxable to the mortgagee or owner. The bankers of San Francisco protested that this was double taxation repugnant to the constitution. A decision in 1868[1] held that a "solvent debt secured by mortgage was property within the meaning of the constitution" and as such was taxable to the mortgagee, who had no cause for complaint. The legislature in 1870 passed an act which declared that: "No mortgage or lien given and held upon real estate, or the debts thereby secured, or promissory notes secured by mortgage, shall be assessed upon the books of any assessor, state, county or otherwise."[2] The revenue code of 1872 repealed this act and defined personal property so as to include everything which was the subject of ownership and was not included in the term "real estate." Hence, money loaned at interest was again taxable. A mortgagor complained that he was suffering from double taxation on his land, but the court held that he was taxed only upon the property in his possession, and that it was of no concern to him what his creditor paid.[3] In 1872 the bankers of San Francisco again contested the tax on money loaned at interest; and this time the Supreme Court held, in 1876, that to declare it the duty of the assessor to assess all "things in action" is to give a construction to the constitution which must lead to the grossest absurdities.[4] Chief Justice Wallace supported his position by the emphatic statement "that a tax imposed upon credits, in whatever form it be imposed, must always be paid, not by the creditor, but by the debtor."[5] This

[1] 34 Calif. 432.

[2] *Statutes of California, 1869–70*, p. 710.

[3] 43 Calif. 590.

[4] 51 Calif. 243.

[5] W. C. Fankhauser, *A Financial History of California*, pp. 235–38. Also C. C. Plehn, "The Taxation of Mortgages in California," *Yale Review*, May, 1899, pp. 39–41.

result, however, depended upon both the nature of the state constitution and the state supreme court. Most of the states continued to attempt to tax intangibles in the same manner as tangible property.

Yet the representative character of mortgages and most other forms of intangibles is not difficult to demonstrate.[1] Suppose, for example, that 1,000 persons, each owning an unencumbered tract of land worth $10,000, constitute a taxing jurisdiction. Let each of these landowners also own $5,000 cash. According to the prevailing rule of uniformity, the valuation of each person's property would be $15,000, and the aggregate valuation, $15,000,000. No matter how a uniform tax is levied, whether upon property, income, produce, or consumption, there would, upon the stated assumptions, be no inequality. The tax would be as equitable as if it had been levied on the $10,000,000 of tangible real property.

Now let each of these 1,000 persons, borrow, on mortgage security, $5,000 from some one of his neighbors within the taxing jurisdiction. Then each one will be debtor and creditor to the extent of $5,000. The taxable valuation, under the doctrine that "every dollar is as good as every other," and without deduction of debts, would now be $20,000,000. It has been increased by $5,000,000 by the simple expedient of borrowing one another's cash. Yet even so, a proportional tax on this $20,000,000 would be not one whit less equitable than if it had been levied on the $15,000,000 existing prior to the borrowing operation. That is true so long as the various classes of property are equally distributed. Assuming a fixed yield, as the valuation goes up, the rate of the tax would decline in inverse proportion.

But let these borrowing operations be confined to only 500 of the 1,000 farmers. Then the valuation would be $10,000,000 taxable to the 500 lending-and-borrowing farmers, namely, $5,000,000 in land, $2,500,000 in cash, and $2,500,000 in solvent credits or mortgages. The valuation taxable to the other 500 farmers not borrowing or lending, would be $7,500,000, namely, $5,000,000 in land, and $2,500,000 in cash, and the total valuation would be $17,500,000. The uniformity rule would now produce some degree of inequality. For the lending-and-borrowing 500 farmers would pay $\frac{4}{7}$ while the other 500 would pay only $\frac{3}{7}$ of whatever amount of taxes were raised. Yet these two groups

[1] Cf. D. A. Wells, *Theory and Practice of Taxation*, pp. 474–79. Also Francis Walker, *Double Taxation in the United States*, pp. 44–68.

of 500 are each in substantially similar economic circumstances. All that is necessary to produce the inequality is the difference in their use of credit, and it is the non-credit-using group that is favored.

Let us now change the assumptions slightly. Let each farmer, as before, own free of debt a $10,000 tract. But let 500 of them have no other property, and let each of the other 500 own $10,000 in cash. The valuation, as before, is $15,000,000 divided as follows: $5,000,000 in land plus $5,000,000 in cash to the wealthier group; and $5,000,000 in land to the poorer group. Let us also assume that $5,000 per farm is required for stock and equipment, and that each of the poorer group borrows that sum from one of his wealthier neighbors. The valuation of the district will now be $17,500,000, divided as follows: to the lending group, $5,000,000 in land, $2,500,000 in stock and equipment, and $2,500,000 in solvent credits; to the borrowing group, $5,000,000 in land and $2,500,000 in stock and equipment. But, whereas, before the borrowing, the borrowing group paid $\frac{5}{15}$, or 33.33 per cent of the taxes, it now pays $\frac{7.5}{17.5}$, or 42.22 per cent; and while the lending group formerly paid 66.67 per cent, it now pays only 57.88 per cent.

Of course, the borrowing group pays more than that. It pays, or at least bears, also that part of the tax on the $2,500,000 of solvent credits which is shifted to the borrower. How much is thus shifted depends upon many things but mainly upon whether the tax on the solvent credits is general or local. If it is local, all of the tax may be shifted.[1] In that case the borrowing group bears the tax on $5,000,000 of land plus $2,500,000 of stock and equipment plus $2,500,000 of solvent debts, in all $10,000,000, or 57.88 per cent, of the total tax, while the lending group bears the tax on $5,000,000 in land plus $2,500,000 in stock and equipment, in all $7,500,000, or 42.22 per cent, of the total. Thus, the uniform general property tax, rigidly applied, saddles 58.22 per cent of the total taxes of the district upon a group that possesses only 33.33 per cent of the equity. The person who uses borrowed capital is penalized in proportion as he does so. In general, persons use borrowed capital for two reasons, either because they are poor or because

[1] In general, such a tax is not enforced or enforceable. If we suppose it to be enforced in this district and not elsewhere, it is a local tax. In practice such taxes, on the solvent credits, are not merely local taxes. They are individual taxes, falling, therefore, with crushing weight upon the few individuals taxed.

they are more capable of employing capital than the owners thereof. Neither characteristic would seem to be a fit cause for discriminating taxation.

But the inflation of taxable general property described is only the beginning of possible inflation of the property tax base. The possibilities for inflation are very much greater in the modern form of corporate business organization. Let, for example, each one of the 1,000 farmers of the district "incorporate" his farm, giving the shares to himself and his relatives.[1] Now, in addition to all the fictitious valuations previously described, there are the shares of stock which in most of the states would be taxable if the statutes should so require, as they often do. Since the value of the shares would be roughly the net equity in the tangible property, the taxation of the shares would *pro tanto* increase the already largely fictitious base. The corporate form of business organization is common in all forms of industry. The holding corporation is common; and, by it, tax-base pyramiding may be carried as far as you please. At present there is everywhere such division of property rights. It would be impossible to mention any branch of economic activity where the institution of credit does not create possible fictitious tax bases.[2] Bank deposits, to consider a striking example, arise chiefly out of loans. The deposits become taxable, and it is seldom possible to allow full credit for the loans out of which they arose. A tax system that does not steer clear of these ever-present overlappings in choosing and using its tax base will produce intolerable inequalities.[3]

Only a small part of the vast amount of taxable representative property is actually taxed. The taxes are, in fact, neither imposed nor paid, except in very few cases. Except for such deductions for debts as are allowed, and other credits granted, they would, however, be both imposed and paid if the provisions of the tax laws were carried out. As it is, both taxpayers and tax officials generally refuse to obey the law.

[1] Farming is less adaptable, or at least has resorted less, to the corporate form of organization than business in general. But the principle is of general application, and there is some didactic value in continuing the example so far used.

[2] Cf. S. E. Leland, *The Classified Property Tax*, especially pp. 119–28. The classified property tax is predicated upon the differences in character of the various classes of property now under discussion.

[3] For a demonstration of the confusion and overlapping of tax liability see F. N. Fletcher, "A Perplexed Assessor," *Bulletin*, V, No. 8, 236–38.

On the whole, this prevailing evasion probably greatly mitigates the harshness of the general property tax under the existing laws; but it is a severe condemnation of a tax system to say that it cannot be just unless certain sections of it are freely evaded.

The uniformity rule is objectionable chiefly because it is applied to representative intangibles. The obvious remedy is to exclude such intangibles from the category of taxable property under the general property tax. The uniformity rule would then apply to tangibles only, and the general property tax would be, according to law, what it tends to be in practice, a tax *in rem*, on possessions.

There remains the question whether all tangibles are sufficiently homogeneous to warrant the application of the uniformity rule to all of them. Just as it is not necessary that all tangibles be taxed, in order to effect a workable and equitable system of property taxes, so it is not necessary or perhaps even desirable that all taxable tangibles be taxed uniformly. There is, however, no such clear-cut reason for classifying tangibles as there is for excluding representative intangibles from the general property tax. The presumption is that all tangibles should be taxed uniformly. But this presumption may well be overcome by practical experience in administering the general property tax. Whether all tangibles should be taxed uniformly depends upon practical operations of the tax, and any conclusion on this point must await an examination of the property taxes of the various states.

CHAPTER VII

THE CLASSIFIED PROPERTY TAX

Certain adjustments of recent popularity break definitely with the principle of uniformity of the general property tax. Diverse measures and practices have been designed to classify property for taxation, subjecting the various classes to taxation at different rates, or at different percentages of the true value. Sometimes both a differential rate and a differential assessment ratio occur in the same system, as in Minnesota and Montana. Again, classification may be combined with segregation, as in Kentucky and California. Classification may be general, or at least very comprehensive, affecting all property taxable, as in Minnesota and Montana; or it may be limited to specified items of property, usually intangibles, as in South Dakota and Kansas.

I. THE CLASSIFICATION MOVEMENT AND ITS PRESENT STATUS

The use of the classification principle is not new.[1] It is in fact the return to an old practice in a modified form. The selection of specified types of property as taxbearers, usually with statutory valuations, and sometimes with differential rates, was general during the colonial period. It persisted for decades after the Revolution until administrative difficulties and the sentiments of Jeffersonian democracy led to the uniformity rule. With or without legal sanction, moreover, it persisted to some degree even during the period when iron-clad uniformity requirements were the custom in state constitutions; and since the Civil War it has slowly gathered momentum.

[1] While the present book was in preparation there appeared a new volume dealing exhaustively with classification, Professor Simeon E. Leland's *The Classified Property Tax*. To this work the reader is referred for a more comprehensive treatment. The present chapter was reduced accordingly. Even so, it is believed that enough is included to present a generalized picture of the classified property tax and to show roughly its place in property taxation of the United States. It is proper to acknowledge that Dr. Leland's treatise has been heavily drawn upon in reshaping the chapter.

Essentially, classification occurs when, in the same tax jurisdiction, property taxation takes variable percentages of the capital value of the taxable property. Illegally, it occurs when, through faulty listing or appraisal, or both, the tax fails to realize the contemplated proportional percentage of the capital value. Reference to subsequent chapters, particularly those dealing with the listing and the appraisal, will make clear, without further elaboration, that there has always been effective if not legal classification. Mere personal discriminations in the assessments of individual taxpayers do not, however, constitute classification. To constitute classification, the discrimination must be substantial, relatively continuous, and must operate against or for certain classes of property in terms of differential percentages of capital value taken in property taxes. This condition is amply met in the American experience. Illegal classification may acquire a certain degree of pseudo-official sanction, as when assessors agree to appraise specified types of property at differentially fixed values, or to disregard certain types of property characteristically owned by certain classes of taxpayers; or it may come about unintentionally, through certain mental bias, as when large parcels are appraised more lightly than small parcels.

Legal classification may originate, not only from the specific authorizations of differential tax rates or differential assessment ratios, but also indirectly through arrangements in the tax system. First, the rate may be fixed by statute, as is the 1 per cent ad valorem tax on New Jersey bank stock. Second, the statutes may provide a maximum or minimum valuation for taxation. Third, specified assessment methods may produce classification, as in Michigan, where railroad property is assessed by the State Tax Commission and taxed uniformly at the average rate on property in the state. Classification here results from the fact that the tax rates differ widely in the different tax districts, while the centrally taxed property takes a uniform rate throughout the state. Fourth, segregation almost invariably produces effective classification, for the reason that the state rate is generally uniform, and for the further reason that, as in California,[1] it is impossible always to keep the specified rate at parity with the average rate on other property. Fifth, varying exemptions may produce classification, as where

[1] Cf. chap. ix, *infra*.

manufactures in process are not listable. Finally—and the list of circumstances producing classification is by no means complete—a special form of tax may be provided, as the Minnesota bushel tax on grain in elevators.

In Table 34 little consideration is given to any but the three major forms of classification, namely, (1) the differential rates, (2) differential assessment ratios, and (3) the recording tax. The first two need no

TABLE 34

PROVISIONS RELATING TO THE CLASSIFIED PROPERTY TAX IN STATES WITHOUT THE CONSTITUTIONAL UNIFORMITY RULE, 1931*

States and District of Columbia	Constitutional Provision	Form of Tax	Property Classified	Rate of Tax (Mills)	Frequency of Payment	Distribution of Revenue
Alabama	None	Recording	Mortgages	1.5	Nonrecurrent	State
Arizona	General	None	....	....	....	....
California	Limited	Low rate	Intangible	Varies	Recurrent	Local
Connecticut	None	Recording	Intangible	4.0	Recurrent	State
Delaware	None	None	....	....	....	....
Dist. of Col.	None	Low rate	Intangible	4.0	Recurrent	Local
Florida	Limited	Mixed	Intangible	Varies	Recurrent	State
Idaho†	General	None	....	....	....	....
Iowa	None	Mixed	General	Varies	Recurrent	Local
Kansas	Limited	Mixed	Intangible	Varies	Mixed	Divided
Kentucky	General	Mixed	General	Varies	Recurrent	Divided
Louisiana	General	Low value	Specified	....	Recurrent	Divided
Maine‡	Limited	None	....	....	....	....
Maryland	Limited	Low rate	Intangible	4.5	....	Divided
Massachusetts	None	Mixed	Specified	Varies	Mixed	Varies
Michigan	Limited	Mixed	....	Varies	Recurrent	Divided
Minnesota	General	Mixed	General	Varies	Mixed	Divided
Montana	General	Low value	General	....	Recurrent	Divided
Nebraska	Limited	Low rate	Intangible	Varies	Recurrent	Divided
New Hampshire§	None	None	....	....	....	....
New Jersey	General	Low rate	Intangible	Varies	Recurrent	Divided
New Mexico	Limited	None	....	....	....	....
New York	None	Recording	Mortgages	5.0	Nonrecurrent	State
North Dakota	General	None	....	....	....	....
Ohio	Limited	Mixed	General	Varies	Recurrent	Divided
Oklahoma	General	Low rate	Intangible	Varies	Nonrecurrent	Local
Pennsylvania	General	Low rate	Intangible	Varies	Recurrent	Divided
Rhode Island	None	Low rate	Intangible	4.0	Recurrent	State
South Dakota	General	Low rate	Intangible	4.0	Recurrent	Divided
Utah	Limited	None	....	....	....	....
Vermont	None	Low rate	Specified	4.0	Recurrent	State
Virginia	General	Low rate	General	Varies	Recurrent	Divided
Washington	Limited	None	....	....	....	....

* Taxes on savings banks deposits in the New England and a few other states, which are discussed below, chap. xviii, have not been included in this table. Cf. chap. ii, *supra*, for dates of constitutional provisions.

† Partial exemption of planted forest land.

‡ Minor classification only.

§ Restricted by court decisions. Income from intangibles taxed as property. Cf. Leland, *The Classified Property Tax*, pp. 184–87.

explanation. The recording tax is ordinarily nonrecurrent, being collected on the occasion of the recording of the instrument, and is chiefly applicable to real estate mortgages. This tax is classifiable as a variant of the differential-rate tax; but usage entitles it to separate treatment, partly because it is often nonrecurrent. A similar variant is the stamp tax, a form of differential taxation evidenced by the attachment of adhesive stamps, with or without registration, which may be annual, as is the Connecticut 4-mill tax on *choses in action*, or nonrecurrent, as was the Kansas *secured debts tax*.[1]

According to Table 34 the District of Columbia and 34 states may, under their constitutions, classify property for taxation. The number is merely provisional, since the meaning of the constitution depends upon its interpretation by the courts, and that interpretation is not predictable. Thus the Alabama constitution requires that all taxes levied on property be "in exact proportion to the value of such property"; this would appear to require the general property tax; but the legislature exempted mortgages and (1903) subjected them to a recording tax, calling it a *privilege* tax. Possibly other states might do likewise; if so, the list should be extended. On the other hand, the New Hampshire courts have held that, although the words "proportional" and "reasonable" were removed from the constitution in 1903, the property tax must nevertheless be proportional despite the fact that New Hampshire has since 1895 taxed savings deposits at a rate different from that on other property.

It will be seen that the state constitution, although the limiting instrument in some states, is by no means that in all. Several states, whether the constitution is silent on the question of uniformity of property taxation or confers either general or limited authority to classify, have not resorted to classification. Delaware and Arizona may be cited along with others. In Utah and Washington the constitutional uniformity rule was modified in 1930. No valid statutory classification has been enacted in these states.[2]

[1] Repealed, 1929.

[2] Additional details to interpret the table may be had from the discussion of the systems of individual states below, but the reader is urged to consult Leland's more specialized work.

II. INDIVIDUAL STATE SYSTEMS

It appears that some twenty states might constitutionally adopt comprehensive classifications for the taxation of property.[1] Only five, Minnesota, Montana, Kentucky, Ohio, and Virginia, have done so. The systems used in each of these states will be treated briefly. Thereafter the systems of the remaining states having limited classified property taxes will be described.

A. GENERAL CLASSIFICATION

These five states are alike in that all have developed complicated classification systems; yet they differ from each other in important respects, falling into two groups, Minnesota, Ohio, and Montana in one, Kentucky and Virginia in the other.

1. *Minnesota.*—Minnesota has had a conspicuous experience with the classified property tax. The original stimulus was the dissatisfaction with inequalities in the general property tax assessment. The state tax commission, created in 1907, believed in a uniform fractional percentage assessment:

> There is nothing sacred about the *true and full value* standard. Any easily figured fraction of *full and true value* would answer nearly as well. If we were starting anew we would unhesitatingly recommend the *full value* standard; but in the face of the long established custom of assessing at from 25 per cent to 50 per cent of the full value and the practical difficulties[2] in the way of amending the many statutes which stand in the way of such a consummation, we have no hesitation in recommending that the assessment be placed upon a fixed basis of 50 per cent of full value. We believe that this basis can be strictly maintained throughout the entire state without injustice to anybody.[3]

In a bill drafted in 1909 a 50 per cent ratio was proposed. Early in the discussion someone proposed a higher percentage for iron ore, mined or unmined. From this simple suggestion grew the present elab-

[1] This is the number of states whose constitutions either are silent on the question of uniformity or provide for permissive general classification.

[2] These practical difficulties consisted chiefly in the fact that salaries of local public officials, tax-rate limits, and debt limits of local units had been expressed in terms of district valuations. They would necessarily be disturbed by an increase in the assessment ratio to 100 per cent of true value. Cf. chap. xx, *infra*.

[3] *Report, 1912*, p. 109.

orate classification. In view of the absence of any precedent, the particular form of classification chosen must have been to some extent accidental.

The 1913 law, still effective, requires all taxable property to be listed at full value and assessed as follows: Class I, comprising iron ore, mined or unmined, is assessed at 50 per cent of the full value; Class II, including household goods and similar property at 25 per cent; Class III, consisting of agricultural products, manufacturers' material and tools, livestock, implements and machinery, and all unplatted real estate at $33\frac{1}{3}$ per cent; Class IV, including all platted real estate and personal property not elsewhere included, 40 per cent. Money and credits, under the law of 1911, are taxed at the rate of 3 mills on full valuation.

The mortgage registry law of 1907 imposed a 5-mill charge on the face value of all domestic real estate mortgages. In 1913, the rate was changed to 1.5 mills when the maturity was 5 years or less, and to 2.5 mills when the term was longer than five years. The revenue from the mill tax and the recording tax is divided as follows: one-sixth to the state, one-sixth to the county, one-third to the school district, and one-third to the city, village, or township in which the holder resided. Wheat and flax handled by elevators are taxed at the rate of $\frac{1}{2}$ mill and other grain at the rate of $\frac{1}{4}$ mill, per bushel, in lieu of other taxes. There is a tonnage tax of five cents per ton on ships navigating international waters, in lieu of other taxes. Motor vehicles, in lieu of other taxes, are taxed at $2\frac{3}{4}$ per cent of original cost less depreciation. Telegraph companies are centrally assessed and taxed at the average rate for the state. In addition, there is the gross earnings tax on certain other public utility enterprises. In 1927 there was enacted a special tax of eight cents on each dollar of the assessed value ($33\frac{1}{3}$ per cent) of forest land, plus three cents per acre for fire protection, plus a yield tax to be paid when the timber is cut, growing timber being exempt. Finally there are the so-called occupation taxes (6 per cent on net value), plus the royalties tax (6 per cent) on the privilege of mining iron ore, in addition to the ad valorem tax. The principle of classification as applied has stood the test in the courts.[1]

The various parts of this eclectic system are compromises reflecting

[1] 128 Minn. 384; 132 Minn. 205; 136 Minn. 260.

local bias and the relative political strength of several interested groups. The 25 per cent basis for household goods is a compromise between urban and rural interests, the former seeking to have this class of property exempted, the latter to have it taxed like other property. The assessment of iron ore on the 50 per cent basis is a product of two circumstances: It was widely believed that the iron ore property had not been adequately taxed for state purposes.[1] The iron interests, also, while influential enough locally, were not strong enough to prevent the classification, although they were strong enough for about twenty years to prevent the imposition of a tonnage tax.

Quite perplexing is the discrimination between urban and rural real estate, with the ratios of 40 per cent and $33\frac{1}{3}$ per cent, respectively. It has been charged that the discrimination is a result of the domination of the agricultural interests. The tax commission, however, denies this charge.[2] The distinguishing words of the law are "platted" and "unplatted." Though arbitrary, they were adopted for want of better terms. Some difficulty arises, as the commission has pointed out,[3] in "line cases." A type of unintended discrimination is that between the dwelling of a working man in the suburb, which is "platted" and assessed at 40 per cent, and the country estate of a wealthy business man, which is "unplatted," and assessed at $33\frac{1}{3}$ per cent.

The tax commission believes that classification is "a wonderful improvement over the old law."[4] While positive, that statement is less enthusiastic than one made six years earlier to the effect that "we have this year, for the first time since the state was created, an assessment which complies substantially with the law."[5] The law has "meant the uprooting and discarding of habits and practices that have prevailed through the state for more than fifty years."[6] Nevertheless, the assessment is not always "according to law," and it may be that the classified property tax has been primarily the convenient occasion for greater diligence in administration.

[1] For a brief description of the occupation taxes on iron mining, cf. chap. ix, *infra*.

[2] *Report of Tax Commission, 1918*, p. 86. The urban interest insisted that, with existing tax-rate limits, they could not raise adequate revenue on an assessment ratio less than 40 per cent. The rural interests insisted on a lower ratio. Finally each group was given its choice.

[3] *Report, 1918*, p. 85.

[4] *Report, 1920*, p. 93.

[5] *Report, 1914*, p. 25.

[6] *Ibid.*, p. 25.

Minnesota's early experience with money and credits under the general property tax was very unfavorable. The early hopes of the commission and the legislature for the 3-mill tax were reasonably justified. Table 35 shows for selected years the increase in the number of persons assessed, the valuation, and the revenue derived from the money and credits tax. The principal claim in favor of the tax is not its excellence as a revenue producer, but that it is a more equitable tax base and one that is reasonably enforceable.

TABLE 35

NUMBER OF PERSONS ASSESSED, ASSESSMENT, AND REVENUE UNDER THE MINNESOTA 3-MILL TAX ON MONEY AND CREDITS*

Year	Number Assessed	Amount of Assessment	Revenue	Rate (Mills)
1910†	6,200	$ 13,919,806	$ 379,754	28
1911	41,439	115,481,807	346,445	3
1915	73,062	212,134,901	636,404	3
1918	98,502	330,300,219	990,000	3
1920	127,471	437,628,871	1,312,886	3
1922	109,081	400,688,948	1,202,066	3
1924	109,969	405,480,155	1,216,440	3
1926	115,189	414,072,234	1,242,216	3
1927	109,797	411,982,418	1,235,947	3
1928	102,720	416,914,484	1,250,743	3

* *Report of Tax Commission, 1928*, p. 30.

† Last year under the general property tax.

Moderate success is also claimed for the recording tax. As may be seen from the yield, the number of mortgages reached is large. The first year the yield was $306,000; this increased to $527,000 in 1912. After the rate had been reduced to 15 and 25 cents in 1913, the yield declined to $286,000 in 1914, rose again to $347,000 in 1916, fell to $284,000 in 1919, and rose to $590,425 in 1924. Fiscally the tax is of secondary magnitude, but the yield is in excess of the revenue that would be realized from the taxation of mortgages under the general property tax. Its principal claim to favor is the fact that the burden is distributed evenly among all the contributors. Besides, it is almost self-enforceable, the instruments, if not registered, being denied validity as evidence in court.

2. *Montana.*—The Montana system, adopted in 1919,[1] has six classes each of which is assessed at specified percentages of the "true and full" value, as shown in Table 36. Several differences between the Minnesota and the Montana classifications may be noted. First, in

TABLE 36

MONTANA CLASSIFIED PROPERTY TAX SCHEDULE

Class	Description of Property	Assessment Ratio (Per Cent)
I.	Net proceeds from mines	100
II.	Household goods, agricultural and other implements and machinery, motor vehicles, boats, etc.	20
III.	Livestock and agricultural products, merchandise, and mercantile furniture and fixtures	33⅓
IV.	Land and improvements, manufacturing and mining machinery, fixtures and supplies, and (since 1929) shares of bank stock	30
V.	Money and credits, without deduction or offset for debts	7
VI*.	All other taxable property	40

*Class VI, consisting of shares of stock in banking corporations and taxable at 40 per cent, was combined with Class IV and made taxable at 30 per cent in 1929.

Montana all real estate is assessed at 30 per cent. Something can be said against assessing land at only 30 per cent as compared with Class III at 33⅓ per cent and Class VI at 40 per cent. Particularly in Montana, dependent upon the extractive industries of agriculture and mining, it is almost certain that differential taxes on producers' capital will be shifted to the fixed property of the state. They had better be placed there in the first place. Another feature is the assessment of net proceeds, not capital value, of mining property, or even gross pro-

[1] *Laws of 1919*, chap. 159. Cf. John Edgerton, "Montana Problems," *Proceedings, 1919*, pp. 102–15. Also *First Biennial Report of the State Board of Equalization, 1924*, p. 39.

ceeds of mineral products, at 100 per cent of true and full value. Far from being a discrimination against such property, this favors the mining industry, although the extent of the favorable treatment cannot be measured.[1] The 7 per cent assessment of money and credits contrasts in form with the Minnesota 3-mill rate. A flat rate makes the tax uniform on money and credits throughout Minnesota, while in Montana the effective tax rate on such property varies directly with the local rate, and moneys and credits share the local burden of high or the relief of low tax rates. The distribution of the revenue is the same as for other property.

TABLE 37

ASSESSMENTS AND REVENUE FROM MONEY AND CREDITS IN MONTANA FOR SELECTED YEARS*

Year	Assessments	Revenue
1918†	$ 8,869,000	$286,000
1919	64,314,000	174,000
1920	63,008,000	203,000
1926	47,838,000	176,000
1927	50,599,000	186,000

* Based upon data in S. E. Leland, "An Appraisal of the Results Secured by the Application of the Principle of Classification to Intangible Property," *Proceedings*, XXI, 292–318.

† Last year under the general property tax.

The fiscal aspects of the Montana classified property tax are not encouraging. Table 37 shows the amounts assessed and the revenue collected from money and credits for the years 1918, 1919, 1920, 1926, and 1927. The assessment for 1918 was under the general property tax while for each of the later years the taxable valuation was only 7 per cent of the assessment. Though there was an increase in the assessment of from $8,869,000 in 1918 to $64,314,000 in 1919, presumably due to the low assessment ratio effective for the latter year, the taxable value, being 7 per cent of the assessed value, actually declined. Moreover, the assessed value declined to $50,599,000 in 1927. In consequence, the revenue from money and credits declined. The classified

[1] For this discrimination, cf. Louis Levine, *The Taxation of Mines in Montana* (1919).

tax, then, may be acceptable in Montana as a measure of equity, but cannot be advocated solely as a fiscal device.

TABLE 38

CLASSIFICATION OF PROPERTY FOR TAXATION IN OHIO, 1931

Class of Property	Tax Rate
Tangible personal property not used in business	Exempt
Tangible personal property used in business:	
Machinery, raw materials and finished products of manufacturers, livestock and machinery of farmers	Local rate on 50 per cent of value
Merchandise, inventories, and equipment of merchants	Local rate on 70 per cent of value
All property of public utilities, including machinery and equipment for manufacturing and distributing of electricity	Local rate on 100 per cent of value*
Investments (stocks, bonds, mortgages, annuities, interest on trust funds, etc.)	Five per cent of income yield
Unproductive investments (same as above but yielding no income during calendar year)	Two mills on each dollar of full value
Shares of stock of financial institutions (including bank stock and the non-withdrawable shares of building and loan associations)	Two mills on each dollar of book value
Bank deposits and withdrawable shares in building and loan associations	Two mills on each dollar of full value
Shares of and capital employed by dealers in intangibles	Five mills on each dollar of book value
Capital and surplus of domestic insurance companies	Five mills on each dollar of book value
Moneys and credits and all other intangibles	Three mills on each dollar of true value

* This rate is also applicable to real estate on 100 per cent of value.

3. *Ohio.*—After several unsuccessful attempts Ohio adopted a classification amendment in 1929 and, in a general revision of the tax system in 1931, provided an elaborate scheme of classification,[1] shown in Table 38. Nothing can, of course, be said as yet of the fiscal effective-

[1] *Ohio Laws of 1931*, S.B. 323.

ness of this arrangement. The principal noteworthy features are as follows: tangible personal property not used in business is exempt; all other tangible personal property except that of public utilities is favored by means of fractional assessment ratios; income is used as the basis in case of investments; and various low-rate, uniform mill taxes are imposed on all other intangibles. There is evidence in the scheme of a serious attempt to devise a structure of rates suited to the characteristics of the different classes of intangibles. Though the constitutional authorization of classification is limited, the classification scheme is quite general, leaving only real estate and the property of public utilities subject to the uniformity rule.

4. *Kentucky.*—A law suit brought in 1915 by the Louisville and Nashville Railroad Company complaining of illegal classification through relative overassessment appears to have precipitated the constitutional amendment permitting classification in 1915 and the statute thereunder in 1917. The scheme of classification set up in 1917 was altered in 1924. The two schemes are presented in juxtaposition in Table 39 in order to show the changes effected. They provide not only for classification but also for segregation, although the bases differ from those used in California and Minnesota. The introduction of classification was the occasion for renewed but not very successful attempts to achieve a legal assessment. There was an increase in the assessed valuation, but it was irregular. Some of the assessors lost their enthusiasm for the listing of intangibles, because any increase in the assessed valuation of this class of property would not increase the county revenue. Furthermore, there was no adequate adjustment of the local tax rates. Some districts and some funds obtained too much revenue, others too little.

The results of the increase in the valuation of each of the principal classes of property may be seen from Table 40. The Efficiency Commission of 1924, commenting unfavorably upon the results, applied four tests. The first test was the extent to which property that had hitherto escaped taxation was reached. Bank deposits showed the greatest increase, the banks being required to advance the tax with the privilege of reimbursement. The increase of intangibles was less than expected, due to lack of motive to discover intangibles on the part of the local assessors. The increases are hardly more than can be attrib-

uted to the expected increase in wealth, and to such administrative improvement as might be expected to occur from the classification.

TABLE 39

KENTUCKY SYSTEMS OF CLASSIFICATION OF PROPERTY FOR TAXATION, 1917 AND 1924

Class of Property	Rate (Mills)			
	1917		1924	
	State	Local	State	Local
Real property	4	Variable	3	Variable
Personal property generally	4	Variable	5	Variable
Bank deposits and shares in domestic building and loan associations making loans to members only	1	Exempt	1	Exempt
Money and credits generally, but not including shares of domestic corporations, which are exempt when 75 per cent or more of the corporate property is taxed in the state*	4	Exempt	5	Exempt
Farm implements and machinery, and manufacturing machinery and manufactured goods in process	4	Exempt	5	Exempt
Livestock and domestic fowls	1	Exempt	5	Exempt
Unmanufactured agricultural products†	4	Variable	5	Exempt
But not to exceed for—				
Counties‡	....	(1.5)	....	....
Cities‡	....	(1.5)	....	....
Shares of bank stock	4	Variable	5	Variable
But not to exceed for—				
Counties	....	....	....	(2)
Cities	....	....	....	(2)
School districts	....	....	....	(4)

* There was also a mortgage-recording tax of 2 mills, except those executed to building and loan associations.

† By law of 1920. Prior to 1920 taxed as personalty generally.

‡ Status of 1917 restored 1926. Counties and cities may each tax not in excess of 1.5 mills.

The second test, the extent to which the state revenue was increased under the new method, was not conclusive. The increase in revenue due to the increased valuation was less than it should have been and did not offset the decrease due to the reduction in the rates.

The third test was the effect upon the local revenue. This effect was unfortunate. The loss of revenue from the classes locally exempt was not offset by the increased valuation of the categories locally taxable. It is probable that many persons whose property consisted chiefly of tangibles paid heavier taxes than before. The fourth test was the extent to which classification lessened the tax burden on real estate, a decreased load here was the principal aim of certain groups. The outstanding adjustment in the 1924 scheme is the reduction of the state rate on real property coupled with the increase in the rate on tangible personal property. The extent of the relief to real estate, as far as the

TABLE 40

ASSESSED VALUATIONS OF SPECIFIED CLASSES OF PROPERTY IN KENTUCKY, EXPRESSED FOR SELECTED YEARS AS PERCENTAGES OF THE CORRESPONDING VALUATIONS FOR 1917*

Year	Lands	Town Lots	Personal Property		Bank Deposits	All Property
			Tangibles	Intangibles†		
1917	100	100	100	100	100	100
1918	135.3	105.9	223.4	361.8	1627.3	171.7
1920	186.9	120.2	295.3	404.4	2354.5	220.5
1922	193.6	136.0	239.8	454.4	2454.4	232.8

* Data adapted from *Report of the Efficiency Commission, 1924.*

† Other than bank deposits.

state tax is concerned, may be seen from Table 41. The importance of the relief can easily be overestimated, for the local taxes are much more important than the state tax. And a part of such relief will come from the higher local rates imposed upon tangible property as a result of the absence of local taxes on intangibles.

The complex scheme of segregation and classification in Kentucky does not rest upon "any evident logical basis." The 1924 revision has not greatly improved the system in its essential aspects. The task of the assessment is still left to the local official, whose districts do not appreciably share in the benefits of improved assessment. Yet, in view of the fact that the revenue has not been impaired, as may be seen from Table 42, and in view of the further fact that the valuation of intangibles has increased strikingly, and the number of persons reached

has presumably also greatly increased, the tax system in Kentucky may be regarded as superior to that it displaced.

TABLE 41

PERCENTAGES OF STATE REVENUE IN KENTUCKY BORNE BY EACH CLASS OF PROPERTY FOR THE YEARS 1917, 1920, 1923, 1924*

Classes of Property	1917	1920	1923	1924
Lands	42.5	40.9	39.0	29.1
Town lots	34.9	21.6	23.3	18.6
Intangible property	7.5	15.4	16.7	24.7
Bank deposits	1.2	3.6	3.5	4.0
Other tangible personalty	14.0	17.6	17.1	21.7
Livestock	....	.9	.4	2.0
Total	100.0	100.0	100.0	100.0

* From supplement to *Report of Tax Commission to Governor Fields, 1924.*

TABLE 42

ASSESSMENTS OF INTANGIBLES AND REVENUE THEREFROM UNDER THE CLASSIFIED PROPERTY TAX IN KENTUCKY FOR SELECTED YEARS*

Year	Assessments		Revenue
	Money and Credits	Bank Deposits	
1917†	$ 68,750,000	$ 11,277,000	$2,200,000
1918	246,348,000	179,143,000	1,164,000
1919	364,095,000	209,363,000	1,665,000
1926	457,796,000	334,975,000	2,622,000
1927	490,549,000	349,146,000	2,801,000

* Based upon data from Leland, *Proceedings*, XXI, especially 298–315.
† Last year under the general property tax.

5. *Virginia.*—Virginia never developed the general property tax as extensively as most of the other states. The system consists of a large number of ad valorem taxes on selected types of property. The taxes fall into three groups, based upon the extent to which the state and the local divisions both tax the property:

GROUP I. TAXABLE BY THE STATE ONLY

A. Money, assessed at full value, and taxed at the rate of 2 mills.
B. Municipal bonds of Virginia, at full value, at the rate of 3.5 mills. This tax was repealed 1928.

GROUP II. STATE AND LIMITED LOCAL TAXES[1]

A. Credits, at full valuation, without deduction at rate of 3.5 mills by the state, and not to exceed 2 mills by the local divisions.
B. Shares of corporate stock, on full value, at rate of 8 mills by the state, and not to exceed 3 mills by the local divisions. This tax was repealed 1928.
C. Capital, on full value, at rate of 8.5 mills by the state, and not to exceed 3 mills by the local divisions. State tax to be 7.5 mills after 1928.
D. Shares of bank stock, on full value, at a rate of 2.5 mills by the state, and for the local divisions as follows: If bank is situated in a city, the city rate must not exceed 8.5 mills; if in a town, not exceed 6.5 mills. The county may levy not to exceed 2 mills; but if the bank is neither in a town nor a city, the county may levy at a rate not exceeding 8.5 mills. In 1928 the maximum rate was reduced to 10 mills.

GROUP III. LIMITED STATE PLUS LOCAL TAXATION

Real and tangible personal property is taxable by the state at the rate of 2.5 mills, and by the local divisions at the local rates, subject to the general limitations.

The fiscal results of the classified property tax in Virginia are difficult to measure, but, as may be seen in Table 43, the effect of the change from the general property tax was not at first very marked. The assessments and the revenue have both shown a steady growth, however, which presumably has at least kept pace with the growth in wealth of the state. The tax, justified as a revenue measure, gains additional support because of the wider distribution in the assessments, which reach an appreciably larger range of taxpayers than did the general property tax.

B. PARTIAL CLASSIFICATION, GENERAL CLASSIFICATION BEING PERMISSIBLE

In a certain sense the distinction between general and partial classification is merely one of convenience. As soon as more than one class is provided the classification is general. In the states now to be considered, the main body of property has been left in one class, only a few items being differentiated. The ten states in this group are alike in that

[1] In 1928, the constitution was amended to require all real and tangible personal property to be taxable exclusively by the local divisions, and intangibles exclusively by the state.

there is apparently no constitutional bar to general classification. The legislatures have simply not carried classification as far as might have been done.

1. *Pennsylvania.*—The general property tax never existed in Pennsylvania. Classification has always been used, although explicit sanction was first given, as stated, in the 1875 constitution. Separation of

TABLE 43

ASSESSMENTS AND REVENUE FROM INTANGIBLE PROPERTY IN VIRGINIA SUBJECT TO THE CLASSIFIED PROPERTY TAX IN SELECTED YEARS*

Year	Assessments	Revenue‡
1914†..............	$117,381,000	$2,166,000 §
1915..............	191,117,000	1,247,000
1916..............	206,588,000	1,365,000
1917..............	236,965,000	1,542,000
1926..............	519,765,000	3,056,000
1927..............	559,926,000	3,050,000

* Based upon data from Leland, *Proceedings*, XXI, especially 297, 298, 315.

† Last year under the general property tax.

‡ State levies only. Data for local levies not obtainable.

§ Figure not comparable with figures for later years.

sources has also been used. An unusual feature is the heavy reliance upon collection at the source. Despite inefficient administration, the operation of the classified property tax, as measured by its yield, has been successful and far more equitable than general property taxation could have been, even with efficient administration. With the exception of vehicles, personal tangibles are not taxed by the state and realty is taxed only locally. The classified property taxes consist of the following parts:[1]

For county purposes the list of intangibles taxable at the rate of 4 mills includes mortgages, credits, notes, certain public loans, stocks of foreign

[1] For greater detail, cf. Leland, *The Classified Property Tax*, pp. 297–314; also M. K. McKay, "A Survey of the Tax Situation in Pennsylvania," *Proceedings*, XIX (1926), pp. 28–52; and Special Tax Commission reports (preliminary, 1925, and final, 1927).

corporations, bonds not paying interest, money loaned outside the state, annuities in excess of $200 annual yield, and all other moneyed capital. Real estate and selected types of tangible personalty are taxable at varying local rates. The 4 mill tax was originally (since 1840) a state tax, but in 1889, owing to local fiscal needs, one-third of the revenue was refunded to the counties, in 1891 three-fourths of it was returned to the counties. Since 1913 it has been a county tax. Self-assessment made to local assessors is relied upon with very little central supervision. Hence the listing has been incomplete; and this part of the classified property tax is regarded as the least satisfactory. Even so, the assessment has steadily increased from $98,066,000 in 1880 to $2,395,955,000 in 1925, while the yield has correspondingly increased from $392,000 to $9,853,000.[1]

For state purposes there has been a 4-mill tax on corporate loans since 1840, and since 1891 a similar tax on certain public loans. The corporations pay the tax, with the right of reimbursement from bondholders. But, since foreign corporations cannot be forced to pay and since the tax is payable only by residents of Pennsylvania, whom the corporations are required to locate, the tax is practically confined to such bonds of Pennsylvania corporations as are held by residents. The tax is levied technically against the owners, the corporation acting merely as collector; but many corporations have "covenanted" to pay the tax. Owing to the feature of collection at the source, the yield has been high, increasing from $55,788 in 1845 to $5,634,543 in 1926.[2]

The most prolific source of state revenue is the tax on capital stock, dating back to 1840, and levied since 1889 at the rate of 5 mills.[3] Unlike the tax on loans, the capital stock tax is against the corporation. Hence the residence of the owner is immaterial, but the tax does not apply to foreign corporations, whose stock if held by Pennsylvania residents is locally assessed and taxed at the 4-mill rate. The tax base is the fair value of the stock, a base which involves the deduction of bonded indebtedness. Despite this deduction, which is economically valid, though it has only implicit statutory authorization, the yield has been large, increasing from $37,333 in 1841 to $18,340,791 in 1926.[4]

[1] Leland, *Proceedings*, XXI, 298–315.

[2] *Ibid.*, p. 308.

[3] Except that on distilling companies and domestic fire and marine insurance the rates are 10 mills and 3 mills, respectively. Manufacturing and laundering companies are exempt.

[4] Leland, *The Classified Property Tax*, p. 310.

The tax having been paid by the corporations, the shares are exempt to the holders—this is also true of the tax on corporate loans. Certain corporations, such as insurance and manufacturing companies, are otherwise taxed and not subject to the capital stock tax.[1]

Bringing all the taxes on intangibles of Pennsylvania, except taxes on bank stock, together in Table 44, we see that Pennsylvania draws more revenue from taxes on intangibles than any other state, in fact, more than all other states combined. The secret appears to lie in the

TABLE 44

ASSESSMENT AND REVENUE FROM INTANGIBLES, SUBJECT TO THE CLASSIFIED PROPERTY TAX IN PENNSYLVANIA, FOR SPECIFIED YEARS (In Thousands)*

Year	Personalty		Corporate Loans		Capital Stock		Total Revenue
	Assessment	Revenue	Assessment	Revenue	Assessment	Revenue	
1890...	$ 546,965	$ 1,640	$ 232,147	$ 696	$ 387,079	$ 1,935	$ 4,271
1900...	722,864	2,891	374,731	1,498	1,086,143	5,430	9,819
1910...	1,184,298	4,737	655,456	2,621	1,906,378	9,531	15,889
1915...	1,413,403	5,653	953,838	3,815	2,585,379	12,926	22,394
1920...	1,849,584	7,398	1,062,996	4,251	2,739,014	13,695	25,344
1925...	2,395,955	9,853	1,260,228	5,040	3,367,878	16,839	31,732
1926...	2,527,010	10,108	1,408,633	5,634	3,668,158	18,340	34,082
1927...	....	....	1,186,953	4,747	4,094,658	20,473	....

* S. E. Leland, "An Appraisal of the Results Secured by the Application of the Principle of Classification to Intangible Property," *Proceedings*, XXI, 295–314. Taxes on bank stock were omitted since such stock is generally subject to the general property tax.

method of administration, with the taxes on corporate loans and capital stocks being paid by the corporations. It should be remembered, however, that Pennsylvania imposes no state income tax.

2. *Connecticut.*—The Connecticut *choses-in-action* tax is in form a recording tax. The legislature in 1889 taxed all *choses-in-action* annually at the rate of 2 mills for state purposes. Since 1897 the rate has been 4 mills. Virtually every form of intangible property not otherwise taxed or exempt is subject to this tax, including money, deposits, credits of various forms. Bonds of Connecticut corporations are exempt, as are shares of practically all corporations otherwise taxed, mortgages on realty in Connecticut, and deposits in savings banks, which are

[1] But see the feature of local classification of realty in second-class cities, below.

taxed to the banks as such. The state treasurer registers such intangibles as are presented to his office and collects the tax. Registration is optional, but intangibles not registered are subject to the local property tax, which is as a rule much higher, but which is usually evaded.

This tax is only moderately effective. The present yield is greatly in excess of the yield in 1889. The volume of the intangible property assessed then was about $13,000,000; now the amount recorded averages more than twelve times as much, and the annual revenue exceeds $500,000. Besides, small amounts are occasionally taxed locally at the

TABLE 45

ASSESSMENT AND REVENUE FROM INTANGIBLES, SUBJECT TO THE CONNECTICUT 4-MILL TAX, IN SPECIFIED YEARS*

Year	Assessment	Revenue
1890	$ 33,654,000	$129,000
1900	22,040,000	93,000
1910	44,818,000	167,000
1920	135,087,000	513,000
1925	129,451,000	496,000
1926	129,422,000	501,000
1927	128,633,000	504,000

* Leland, *Proceedings*, XXI, 296–314.

local rate. It is estimated that more than one-half of this class of property is not rendered at all.[1] That the results have not been better may be ascribed partly to the voluntary character of the registration, there being no penalty except liability to the local tax and liability to an additional 5 per cent inheritance tax since 1915. Nevertheless, the system is superior to what preceded.

In Connecticut, as in Pennsylvania, there are no records for the transition period to show the superiority of the classified property tax to the general property tax. Though there has been considerable growth in both property assessed and revenue realized from the tax on intangibles, the Connecticut record, as shown in Table 45, is inferior to that of Pennsylvania.

[1] Data chiefly from a report of the Connecticut Chamber of Commerce. Professor Fairchild, who directed the investigation upon which the report was based, discussed the conclusions drawn in *Proceedings*, XII (1919), 152–62.

3. *Maryland.*—Since 1896 Maryland has imposed mill-rate taxes on intangibles. The tax does not apply to money and currency, book accounts, mortgages (since 1904), ground rents, public bonds, bank deposits, and unproductive bonds and stocks. It applies, therefore, chiefly to productive bonds and stocks of private corporations held in the state. It was apparently in violation of the constitutional uniformity rule; but it was never questioned; and, in 1914, the constitution was amended so as to permit classification, except that taxes on land were required to be uniform. Collection at the source was not employed,

TABLE 46

ASSESSMENTS AND REVENUE FROM INTANGIBLES, SUBJECT TO THE 4-MILL TAX IN MARYLAND, FOR SPECIFIED YEARS*

Year	Assessment	Revenue
1900†	$ 65,789,000	$ 314,000
1910‡	193,194,000	888,000
1920	338,174,000	1,521,000
1925	394,531,000	1,775,000
1926	421,836,000	1,898,000
1927	484,838,000	2,181,000
1928	553,376,000	

* Leland, *Proceedings*, XXI, 296–314.
† Baltimore City only.
‡ Baltimore City and County only.

but domestic corporations were required to report resident shareholders to Maryland counties. The rate varies with the state rate, being the fixed local rate of 3 mills plus the variable state rate. Since 1914 the maximum aggregate rate is 4.5 mills.

The results for Baltimore, where the administration has been more effective, have been satisfactory only in comparison with the poor results under the old system.[1] In Baltimore in 1896 only about $6,000,000 of this class of property were assessed; the amount rose to nearly $59,000,000 in 1897, the first year of the new law. In 1907, the amount was $147,000,000 and in 1922, $267,000,000. How much still escapes can only be estimated. In Table 46 is shown the assessment and revenue under this tax for selected years.

[1] J. H. Hollander, "Municipal Taxation of Intangible Wealth," *Proceedings*, I (1907), 406–14.

4. *New York.*—In 1906 New York introduced a mortgage recording tax of 5 mills on domestic real estate mortgages. Other taxable intangibles were subject to the general property tax; in practice they were not taxed. While, therefore, the tax nominally favored domestic mortgages through a low rate, it was in fact discriminatory against them.[1] One-half of the revenue went to the state, the other half to the local division of the owner's residence.

The principle was extended in 1911 by the so-called *secured debts tax*, which remained in force until 1915. The state retained the entire proceeds from this tax. The law exempted $750,000,000 of securities from taxation during the life of the securities registered. The yield amounted to about $1,000,000 annually. The tax on the longer maturities, on which the rate was 5 mills on face value, payable only once, was very low. In 1915 the rate became 7.5 mills, with exemption limited to five years. The tax was in force for only 15 months, and was suspended for part of that time. It yielded about $1,950,000; it also exempted additional securities to the extent of $260,000,000 for five years. In 1917 the rate was changed to 2 mills, and the tax was made annual. Subject to the tax were bonds, notes, debts, debentures, or other written or printed obligations forming part of a series. Bonds of the state of New York were exempt and the tax did not apply to mortgages taxed under the 1906 mortgage recording tax. Registration was optional, but taxables not registered were subject to the general property tax. In addition, there was a 5 per cent penalty inheritance tax. The latter provision has been held unconstitutional on the ground that it was discriminating; in this respect New York differs from Connecticut. In 1919, an income tax law was passed which displaced all recording taxes except those on New York real estate mortgages.

5. *Iowa.*—In Iowa the classification, with the required ratios of assessed to full value and the rates applicable, is as follows:[2]

I. General property taxed on 25 per cent of full value, at local rates.
II. Bank stock and property in competition therewith on 20 per cent of full value, at local rates.
III. Money and credits, including stocks in corporations, on full valuation, at the uniform rate of 5 mills, plus a surtax of one mill for soldier's bonus.

[1] Cf. James A. Wendell, "The Tax on Investments in New York," *Proceedings*, XII (1919), 162–75, also annual reports of the New York Tax Commission.

[2] *Digest of State Tax Laws, 1922*, pp. 120–21.

The results of classification in Iowa have not been fortunate.[1] The average ratio at which general property is in fact assessed is not 25 per cent, but probably nearer two-fifths of that ratio. The tax rates have mounted to dizzy figures. Money and credits have generally escaped; this is largely ascribable to faulty tax administration, there being practically no central supervision.[2]

6. *Other states.*—During the decade just past, the tax laws in North Dakota have been frequently changed. The first attempt was the money and credits act of 1915, which was declared unconstitutional. Another and similar act, based upon the Minnesota act, passed in 1917, became effective for 1918. A more general classification, however, was authorized in 1921. Two classes of property were provided, as follows: In Class I were placed

> railroads and other public utilities, together with franchises and all real and personal property connected therewith; all land, exclusive of structures and improvements thereon; all bank stocks; all flour mills, elevators, warehouses, and storehouses of all kinds; all buildings and improvements on railway rights-of-way or sites leased from railway companies or other public utility corporations; structures and improvements on town and city lots used for business purposes.[3]

Class II comprised all other property, except money and credits. In 1923, however, all taxable property was taxed at 75 per cent of its true value, except that farm buildings and improvements on agricultural land were exempt.[4]

South Dakota provided for general classification by amending her constitution in 1918 but extended the classification only to money and credits, in the form of mill taxes and recording taxes on mortgages similar to and based upon the Minnesota taxes on intangibles. In 1923, however, the legislature abolished the recording tax on mortgages and raised the rate of the tax on money and credits from 3 to 4 mills.[5]

In Louisiana, one law[6] created a special class of property of plants engaged in the manufacture of rosin, turpentine, and other naval

[1] Cf. John E. Brindley, *History of Taxation in Iowa,* for an extended discussion.

[2] In 1929, however, the State Board of Assessment and Review was created.

[3] *Digest of State Laws, 1922,* p. 335.

[4] Letter from the deputy tax commissioner, April 15, 1926.

[5] Letter from tax commission, April 14, 1925.

[6] Act No. 66, 1924.

stores from waste timber material, to be assessed at 10 per cent of its market value. The classification is temporary, lasting only for ten years, and is obviously designed to encourage industry. In 1926, plants engaged in utilizing certain waste material, such as those from rice and cotton, were added to this category, as were also ship repair plants, except that the assessment ratio was 40 per cent. This method constitutes an alternative to local temporary exemption. Another law[1] created a permanent classification for intangibles, as specified, with an assessment ratio of 10 per cent of the market value. Stocks and such nonrepresentative intangibles as patents and franchises are not included. Practically all other intangibles are exempt.

In Oklahoma a nonrecurrent tax on mortgages at rates amounting roughly to 2 mills for each year of the term of the instrument is imposed.[2] The revenue is credited to the school fund of the counties. In 1927, intangibles generally, except such as compete with the stock of national banks, were made taxable at 2 mills. Rhode Island imposes a tax of 4 mills on certain intangibles, money, credits (less debts), public bonds, and private bonds and stocks not otherwise exempt.[3] The revenue is for state purposes.

C. LIMITED CLASSIFICATION

In recent years there has been a tendency to extend limited authority to the legislatures to classify property. The distrust of the legislature apparently arises from fear of adverse classification on the part of certain groups, such as landowners. The number of states in this class is small, and their experience is too brief to warrant extensive generalization.

In 1908 the constitution of Michigan was amended so as to (1) require the legislature to provide by law "a uniform rule of taxation except on property paying specific taxes, (2) require centrally assessed property to be taxed at the average state rate, and (3) authorize the legislature to impose specific taxes, which shall be uniform upon the classes upon which they operate." Under this provision, railroads pay taxes at the average rate for the state; a mortgage-recording tax of 5 mills was imposed in 1911; a ship-tonnage tax in the same year; and in 1913 the recording tax was extended to bonds and other credits.

In 1913 the constitution of Maine was amended to authorize the

[1] Act No. 163, 1924. [2] *Digest of State Laws*, p. 366. [3] *Ibid.*, p. 394.

legislature "to levy a tax upon intangible personal property at such rate as it deems wise and equitable without regard to the rate applied to other classes of property."[1] New Mexico entered the Union in 1911 with the constitutional uniformity clause, but that rule was modified in 1914 to provide for classification of intangible property.[2] Neither of these states, however, has made any use of this authority. In 1914, also, Maryland legalized the classification of intangibles already effective as described above. In 1920 Nebraska limited the uniformity requirement to real property and franchises;[3] and in 1924 California,[4] Florida,[5] and Kansas[6] permitted the classification of intangibles. Of the three last, only Florida[7] has not enacted a classification measure. Ohio and Washington permitted classification in 1929, and Utah in 1930.

Because of two unusual features of the original act of classification, namely, the rate of the tax and its distribution of the revenue, the Nebraska classified property tax deserves consideration. The 1920 amendment permitted classification of all intangible property except franchises. The law enacted under the amendment provided for a rate on money and credits equal to 25 per cent of the mill rate levied upon tangible property in the district of the taxpayer's domicile. The rate on intangibles would thus vary with the rate on tangibles, as in Montana. There was created another class, domestic bonds of the state local governments, taxable at the rate of 1 mill, the bonds of other states being taxable, as were money and credits, at the 25 per cent rate. A 4-mill tax on "gross earnings" of building and loan associations was also imposed. But this was not clearly a property tax, and falls largely outside the scope of this treatise.[8] This arrangement was not regarded

[1] Art. xxxvi.

[2] Art. viii, sec. 1.

[3] Art. viii, sec. 1.

[4] Art. xiii, sec. 12½.

[5] Art. ix, sec. 1.

[6] Art. xi, sec. 1. Statutory classification adopted in 1925; amended, 1927; partly repealed, 1929; and repealed parts restored, 1931.

[7] After the manuscript had gone to press the Florida legislature approved House Bill No. 30xx, which imposed a tax of 2 mills per dollar upon stocks, bonds, notes, and mortgages, and a tax of $\frac{1}{10}$ of 1 per cent upon certain other intangibles.

[8] For a discussion of the system as originally established, cf. O. G. Virtue, "New Phases of the Classified Property Tax," *Journal of Political Economy*, XXIX, 603 ff.

as satisfactory. Accordingly, in 1925 the following scheme was established:

Class A, consisting of money, including savings accounts and bank deposits, was made taxable at the rate of 2.5 mills.

Class B, substantially all other intangibles except shares of bank stock, including corporate bonds and stocks, except that the value of domestic stocks was to be determined by deducting from their capital value the assessed value of property of the corporation otherwise taxed, was made taxable at the rate of 5 mills. The revenue from taxes on both of these classes was divided among the state and the respective subdivisions in the same ratio as the revenue from taxes on general property. Shares of bank stock were "listed and assessed" at 70 per cent of the local mill rate for tangible property. The rate has since been raised to 8 mills for all Class B intangibles, including bank stock.

Under the 1924 amendment Kansas, in 1925, created two classes of intangibles. Domestic real estate mortgages were subjected to a recording tax of 2.5 mills in addition to the regular recording fee. Other intangibles, including shares of corporate stocks on a basis similar to that of Nebraska, were subjected to a recurrent tax of 2.5 mills. The revenue from both classes was divided in the same way as the revenue from the mill tax in Minnesota. In 1927 the rate on money and credits was raised to 5 mills. A new class of securities, the public bonds of other states and counties, was created and subjected to an alternative stamp tax of 1 mill per dollar of amount per year of maturity plus a 1-mill recording tax. In 1929 all low-rate taxes, except the mortgage recording tax, were repealed; but they were re-enacted in part in 1931.

Under the recent constitutional amendment, California provided for taxation of certain intangibles, including shares of stock or foreign corporations, upon a basis of 7 per cent of full value. This was held unconstitutional. Domestic real estate mortgages were subject to an annual tax of $\frac{1}{20}$ of 1 per cent. In 1928 a flat rate of 3 mills was imposed on solvent credits. At present (1931) the specific mill rates vary from 1[1] to 2[2] mills.

[1] Book accounts and conditional sales contracts not in note form, both of which presumably are not earning interest.

[2] All others that are taxable.

D. SINGLE-TAX EXEMPTIONS

It is proper to mention briefly a movement for full or partial exemption, and, therefore, for a species of classification of improvements, as distinct from the land on which they occur. Such exemptions and consequent concentration of the tax burden on land have proceeded farther in Australia and Canada than in the United States, where the cases are isolated, of local origin, and in some cases extra-legal. Fiscally, they are yet unimportant, but are included to round out the discussion of classification.[1]

A few cities in the United States, in which home rule has been granted to that extent, tax improvements at a lower percentage of the valuation than that used for land. In Houston, Texas, the assessment was made on the percentages of 70 per cent for land and 25 per cent to 33 per cent for improvements. The arrangement was extra-legal and of short duration. The same fate, by way of speedy repeal, befell the movement in Pueblo, Colorado, where in 1913 on initiative petition the electors ratified a proposal for a 50 per cent exemption of improvements in 1914 and an ultimate 99 per cent exemption of improvements from taxation.

The Pennsylvania legislature in 1913 permitted cities of the second class, Pittsburgh and Scranton, progressively to reduce the tax rate on buildings and improvements by one-tenth, until in 1925 and thereafter the rate on buildings was to be one-half of the rate on land and other taxables. Pittsburgh had a rather discriminatory system before that time, and the new arrangement was designed as an improvement. The old system was a scheme of classification applying to real estate. Land lying in the outskirts of the city was designated as agricultural land and was taxed at one-half of the usual rate. The so-called rural estate, a "district occupied as residences, mainly by business men of the city, not divided into small lots, but large and of unequal size, ornamented with lawns, trees, shrubberies, flowers, etc.," was taxed at two-thirds of the usual rate. This was said to be a bad form of classification because it shifted the burden of taxation from the well-to-do classes to the occupiers of the congested tenements. The law was also said to

[1] Cf. R. M. Haig, *The Exemption of the Improvements from Taxation in Canada and the United States;* also Yetta Scheftel, *The Taxation of Land Value;* and H. J. Young, *The Single Tax Movement in the United States.*

make it easy to keep land unimproved, with the same economic effect. To replace this undesirable system, another form of discrimination was accepted, which favors improvements regardless of location.[1]

The plan was introduced gradually, but in 1925 was in full operation. It applies only to taxes for city purposes. For school and county purposes Pittsburgh property taxes are similar to property taxes elsewhere. But for city taxes, which amount roughly to one-half of the aggregate tax on property in the city, the distinguishing feature is that the tax rate on the building is only one-half that of the tax rate on the land. It is, of course, necessary to appraise land and buildings separately; but that is a fairly common practice in many cities, and should be done in any case. Vacant land bears the full rate for city purposes; improvements owned separately take the half rate; and the average rate for both parts of any parcel will depend upon the proportion of the total value made up of land and of improvements. The effect is to increase the burden upon vacant land and upon that part of improved property which consists of land. It was argued that the relief to improvements would stimulate building. In view of the limited application of the single-tax principle, of the short time it has been in operation, and the extreme difficulty of measuring the effects, it would be difficult to appraise the experiment.

In a few other isolated instances such as Fairhope, Alabama, interesting exemptions have been made. At some places they have come to nothing; in others they continue. Little of a definite character has come of the movement; and, with the present public attitude respecting single-tax proposals, it is unlikely that much progress will be made in that direction in the near future.

III. CONCLUSIONS

Considered from a practical point of view, classification was adopted to serve (1) as a measure of relief from confiscatory exactions made under the general property tax, chiefly on intangibles, upon the relatively few taxpayers who did not practice evasion; (2) as a device to increase the revenue from property taxes, chiefly on intangibles, it

[1] For discussion, pro and con, see T. C. McMahon, "Pittsburgh's Graded Tax on Buildings," and E. F. Doume, "The Graded Tax on Buildings," *Proceedings*, XXII (1929), 134–50.

being hoped that the low rates would induce sufficient increases in the assessment to maintain or increase the yield; or (3) as a neo-mercantilistic policy designed to retain property or business in the state or to attract it, a policy under which selfish interests seeking unwarranted favorable treatment have often masqueraded. Further extension of the principle will probably depend upon the extent to which these *ethical*, *fiscal*, and *commercial* expectations are fulfilled, or believed to be fulfilled, and upon the extent to which certain obstacles not originally anticipated are encountered.

Classification has succeeded measurably in equalizing the taxes on intangibles. In all cases a much greater number of taxpayers have contributed under the low rates, whether these rates have been in the form of mill taxes or recording taxes; and nowhere can the rates be regarded as confiscatory, although possibly in some states, as in Virginia, the "low" rates are too high. The problem, however, of fixing the proper rates on the different classes of intangibles, as between those which merely represent tangibles already taxed as such, on the one hand, and, on the other hand, those which, like patents, corporate excess, and good will, are essentially income-yielding property not otherwise taxed, is yet far from solved. It may also be doubted whether the differential rates on the classified tangibles are always proper. Measured by the standard of equity in the apportionment of the tax burden, the classified property tax, as compared with the system which it supplanted, has unquestionably been justified.

Considered as a fiscal device, the classified property tax can show but limited success.[1] On the whole, the revenue probably has been increased through substitution of the low rates for the general rates; but the results are very uneven. The Minnesota experience is fiscally fairly successful, as is the Kentucky tax on bank deposits, and the Pennsylvania tax on corporate loans and capital stock; but the success in Minnesota is due largely to efficient administration, and, in Kentucky, Pennsylvania, and Virginia, to the practice of collection at the source. By itself, classification with low differential rates does not produce adequate revenue in the absence of efficient and properly designed administration. The low rates ought at least to remove from the mind of

[1] Cf. Leland, *Proceedings*, XXI, 292–318, and *supra* for each particular state; also Leland, *The Classified Property Tax*, pp. 411–19.

the assessor any scruples against confiscatory taxation and thereby predispose him toward doing his duty. Doubtless differentially high *effective* rates on classified property, like those on Minnesota mining property and, in some states, on bank stock, have increased the revenue from taxes on such property as could not escape. Whether differentially high rates are in the long run fiscally expedient and ethically justifiable probably does not admit an unqualified general answer.

In comparing the yield from low-rate taxes on intangibles with the yield from general property taxes on this same property, however, it

TABLE 47

SOLVENT CREDITS LISTED IN NORTH CAROLINA, PER CAPITA, PERCENTAGE OF TOTAL PROPERTY ASSESSED, AND COMPARED WITH INDEX OF LISTABLE INTANGIBLES, FOR SPECIFIED YEARS*

Year	Listed			Index	
	Amounts (Thousands)	Per Capita	Percentage of Total Property Assessed	Composite† Comparative	Listed Intangibles
1921	$192,829	$73.77	7.5	....	....
1922	185,939	70.17	7.2	100	100
1923	167,010	62.18	6.3	117	90
1924	167,624	61.56	6.2	151	90
1925	162,405	57.75	5.9	163	87
1926	164,006	57.38	5.8	179	88
1927	150,469	51.94	5.2	196	81

* Based on data from *Report of Tax Commission, 1928*, pp. 323–26.

† Composite index consists of index of the following: state income taxes paid, state automobile licenses paid, state gasoline taxes paid, and bank deposits in the state.

should be borne in mind that in states where the general property tax is continued, the amounts of intangibles listed and taxed are rapidly diminishing. This is well shown by the report of the North Carolina Tax Commission of 1928, as presented in Table 47. From 1921 to 1927 the intangibles actually listed and taxed in North Carolina declined from $192,829,000 to $150,469,000; the per capita amounts assessed declined from $73.77 to $51.94; and the percentage such property composed of the total property valuation declined from 7.5 per cent to 5.2 per cent. This was true despite the fact that there must have been an appreciable increase in intangible property in the state. Thus, a composite index, composed of state income taxes paid, state automobile

license taxes paid, state gasoline taxes paid, and bank deposits of the state, rose from 100 in 1922 to 196 in 1927, while the index of intangibles listed and taxed fell from 100 to 81. The low-rate taxes on intangibles are, therefore, considerably more potent, compared to the general property tax which they displaced, than the analysis here would indicate.

Considered broadly, the policy of exempting or taxing certain classes of property at differentially low rates for the encouragement of business or the localization of property is unsound. Moreover, there is no way of demonstrating inductively whether the hopes of industrial gains have actually materialized, since no one can tell what would have happened if the favorable treatment had not been extended. Certainly, on a priori grounds, each case of favoritism should clearly justify itself to overcome the presumption against the subsidy. For taxes must be paid and, if not paid by the favored classes, must be paid by others.

From a theoretical as well as from a practical point of view, classification, to some degree, appears to be inevitable, considering the fact that property is becoming more and more heterogeneous. But it does not follow that classification is the sole remedy for all evils of property taxation. Some authorities believe that the classified property tax is merely a transitory measure, a forerunner for the state income tax.[1] In view of the deadlock in the movement for state income taxes, and the entanglements of the taxation of banks with the low-rate taxes on intangibles, this particular alternative is not imminent. Likewise, segregation of sources also has its uses, but is not a substitute for classification. So with license, privilege, and other taxes, all of which may be useful. One conclusion is clear: For the purpose of employing the classified property tax where it may be the most fitting adjustment, the legislature should not be hampered by a constitutional requirement for uniform taxation of all property.

[1] Cf. C. J. Bullock, "The State Income Tax and the Classified Property Tax," *Proceedings, 1916*, 362–84.

CHAPTER VIII

TAXATION OF FINANCIAL ORGANIZATIONS

In the peculiar conditions surrounding the taxation of banks, especially national banks, is found one of the reasons why the classified property tax has been retarded in its extension.

It has been long and widely believed that "moneyed capital" does not bear an adequate share of the tax burden, and that special laws and methods were required to prevent its escape from taxation, particularly since it was supposed to be capable of paying heavy taxes. The existence of such an attitude is attested by the constitutional provisions in Ohio, Kansas, and South Dakota,[1] that moneyed capital shall always be taxed at the same rate as other capital, and by the numerous similar statutory requirements elsewhere.

I. COMMERCIAL BANKS

National banks occupy a peculiar position. They are incorporated under federal laws, and, as "instrumentalities" of the federal government, are not taxable by the states except through specific Congressional permission.[2] Permission has been given[3] to tax real property of national banks locally, and to tax the shares of national banks at a rate not exceeding the rate on *competing moneyed capital*. Substantial uniformity of taxation, as between the national and state banks, was the result. For states do not wish to tax state banks, their own creatures, more heavily than national banks; and, under the federal law, they could not tax them more leniently. The federal law also specifies the basis upon which national banks must be taxed, if taxed at all, by

[1] This was removed in Kansas by the constitutional amendment of 1924, at an earlier date in South Dakota, and in Ohio in 1929.

[2] Cf. *Owensboro National Bank* vs. *Owensboro*, 173 U.S. 664, 1899.

[3] *Revised Statutes*, sec. 5219. Enacted 1863; amended 1864, 1868, 1923, 1926; and further amendment is sought. This strenuously agitated provision is familiarly known as "Section 5219."

the states. The result has been a close approximation to uniformity among the states in the taxation of all commercial banks.

As amended in 1868, Section 5219 of the *Revised Statutes of the United States* was, until 1923, the basis for taxation of nearly all banks in the country. Because of its importance, the section may be given in full:

Nothing herein shall prevent all the shares in any association from being included in the valuation of the personal property of the owner or holder of such shares, in assessing taxes imposed by authority of the State within which the association is located; but the legislature of each state may determine and direct the manner and place of taxing all the shares of national banking associations located within the state, subject only to the two restrictions, that the taxation *shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such state,*[1] and that the shares of any national banking association owned by non-residents of any state shall be taxed in the city or town where the bank is located, and not elsewhere. Nothing herein shall be construed to exempt the real property of associations from either state, county or municipal taxes to the same extent, according to its value, as other real property is taxed.

Because of the long standing of the interpretations prior to 1920, it is desirable to discuss the methods in use up to that time, and to note such changes as the later amendments have apparently required or permitted. The shares alone were taxable—not the tangible property, except real estate, which they represented. Whether intentionally or accidentally, multiple taxation of representative property was avoided by the simple expedient of taxing only the representative aspect of the property.[2] But taxation, *according to equity*, of the value of the shares, plus taxation of real estate, *according to possession*, without adjustment for debt, created a situation that has become intolerable.

As a concession, the local jurisdictions may tax real property. The general but not universal practice has been to allow the deduction of the assessed value of real estate locally taxed from the value of the

[1] The italicized portion was originally intended to guard against discriminatorily heavy state taxation of national banks. Perhaps the safeguard was necessary then when banks were new and before the Fourteenth Amendment of the Constitution. But this weapon cuts both ways. At present, by a strange irony of fate, it is the principal obstacle in the way of adoption by the states of suitable taxes on banks.

[2] Except that real property may be locally taxed.

shares. Iowa permits the deduction only of such real estate as is occupied by the bank; Minnesota, only real estate located in the state; while New York formerly permitted no deduction for real estate.[1] Usually only the assessed value of the real estate may be deducted; this is different from deducting the market value. Section 5219 does not require the deduction of real estate.

The basis for the tax was the value of the shares. No other tax was permitted on national banks, even though it might be equivalent in amount to the tax on shares. The method of determining the value of shares permitted considerable variation. The most common method was to add the capital stock paid in, the surplus, and the undivided profits, from which the assessed value of real estate locally taxed would be deducted. Occasionally other deductions are permitted, as in North Carolina, of United States Federal Farm Loan and Joint Stock Land Bank securities, to an amount not exceeding 25 per cent of the capital and surplus. This is unusual and was not until recently thought to be required by the federal law.

In states having the uniformity rule, bank shares are assessed by the local assessor and are subject to the same rate as other property. Where classification is permitted, a different scheme may prevail. Thus, Minnesota bank stock is required to be taxed at $33\frac{1}{3}$ per cent of value. In other states a flat rate fixed by law prevails. In New Jersey this rate is $\frac{3}{4}$ of 1 per cent; in Maryland, 1 per cent; Nebraska, .8 of 1 per cent; Connecticut, 1 per cent.

The bank may be and usually is required to pay the tax, and may be reimbursed by the shareholder. The tax must be assessed against the shareholders separately, not against them collectively, *in solido*. The administrative advantage of requiring the bank to collect the tax is obvious—thus taxed, the shareholder cannot escape. Were the assessor required to assess the shares directly against the shareholder, most of them would probably escape, as do corporate shares and bonds generally, whenever this method of reaching them is attempted. The tax is payable only in the jurisdiction where the bank is located, regardless of residence of stockholders. Thereby are prevented evasion and double taxation—but the rule is different from that applied to intangi-

[1] The distinction is unimportant for New York, where banks are now taxed under the income tax law.

bles generally. It is immaterial who owns the shares. Should the bank own some of its own shares, they would be taxable to it. When the method of determining the market value of each share is considered, the reason for this is clear. The value, determined according to the state law, is divided by the total number of shares. If the banks were not taxable on the shares it held, some of them would avoid taxation.

The requirement which has recently caused trouble is that national bank shares may not be taxed higher than other "competing moneyed capital." A recent case[1] emphasized this rule. Some $14,000,000 of national and state bank shares, it was alleged, had been taxed at rates at least twice as high as $6,250,000 of bonds, notes, etc., in the hands of individual citizens of Virginia. The state courts decided that there was nothing illegal in this since such intangibles were not "competing capital" in the sense hitherto widely accepted. The United States Supreme Court held this view too narrow. Much capital, other than that of shares of state banks and trust companies, was held to enter into competition with commercial banking of the national banks. It was held that the words "moneyed capital in the hands of individual citizens," contained in Section 5219, included something[2] besides shares of state banks and trust companies. They were held to include "moneys invested in private banks and investments of individuals in securities that represent money at interest and other evidences of indebtedness such as normally enter into the business of banking." The taxation complained of was held, therefore, to transgress the limitations prescribed by Section 5219, and was declared invalid.

In states where the uniformity rule prevails, the decision would probably have had little or no effect, provided the general property tax could have been administered so as to reach all intangible property. In the states with low-rate taxes on intangibles, the new rule was not welcome. Intangibles, held to be competing—and so far practically none has been held not to be competing—could not be taxed at low rates unless a similar adjustment was made in the taxation of shares of national banks; and a tax rate of, say, 4 mills on the shares of national banks was a mere fraction of the rate at which other property

[1] *Merchants National Bank* vs. *City of Richmond*, 256 U.S. 619, 1921.

[2] What that "something" is has never been established. There is as yet no inclusive definition of "competing moneyed capital."

was taxed. As Section 5219 was interpreted by this decision, classification of intangibles for the purpose of taxation would practically be ruled out unless similar rates were applied to bank stock.

In 1923 an amendment[1] to Section 5219 authorized three optional but mutually exclusive methods of taxing bank stock instead of the one formerly permissible. The method of taxing the shares as property was continued; but the term "competing moneyed capital" was defined not to include "bonds, notes, or other evidence of indebtedness in the hands of individual citizens not engaged in the banking or investment business and representing merely personal investments not made in competition with the business of national banks."[2] A second method authorized the inclusion of bank dividends with the taxpayer's other income subject to a state income tax. A third method authorized the taxation of the income of the bank to the bank, at a rate "not higher than the rate assessed upon other financial corporations nor higher than the highest of the rates assessed by the taxing state upon the net income of mercantile, manufacturing, and business corporations doing business within its limits." Except that bank-owned real estate might in any case be taxed, the use of any one of these methods precluded all the others.

In 1926 a further amendment[3] of Section 5219 added a fourth option to the three already authorized, namely, an excise tax measured by the income of the bank. The principal difference between this tax and that on the income was supposed, at the time, to be that in the computation of the income for purposes or the latter tax, income from tax-exempt

[1] H.R. 11,939. chap. 267, Sixty-seventh Congress, fourth session.

[2] This provision was at first thought to restrict the scope of the term "moneyed capital." But decisions in 1927 in the Wisconsin and Minnesota tax cases (*First National Bank of Hartford* vs. *City of Hartford* and *Minnesota* vs. *First National Bank of St. Paul*, 71 L. ed. 533 ff.) checked any such hope by saying that private individuals, who invest their surplus funds in mortgages or other securities in which a national bank may invest its funds, compete with the banks. The scope of the banks' activities is wide; and it may be difficult to find any privately held securities which the banks might not hold. If low-rate mill taxes can apply to only such credits as do not compete with the banks, their scope is so narrow as to make them farcical; and they should be abolished, unless the states are prepared to accord to bank shares the same low rate.

[3] S.R. 3377. chap. 88, Sixty-ninth Congress, fourth session.

securities must be excluded, since it was the income directly that was taxed, while with the excise tax such deduction need not be made,[1] since the tax is not directly on the income. Still another adjustment was made: The dividends might be taxed, as income to the shareholder, even though the bank had paid the excise tax; this is the only instance of more than one method being applicable.

It was hoped, and not without reason, that the optional excise tax offered a way out. If the banks could be required to pay the local tax on their real property; if, in addition, the banks should pay a tax on their income as measured by the income, and the dividends were made subject to the personal income tax, it would seem that the bank taxes would be adequate. If all corporations were allowed an offset for personal property taxes paid against their excise tax, the tax would still be equitable on the banks, which would pay no taxes on their personal property, and hence would enjoy no such offset. New York and Massachusetts forthwith adjusted their corporate income taxes to the revised Section 5219; Wisconsin followed suit in 1927; and, in 1929, the three Pacific Coast states of California, Oregon, and Washington did likewise. Some of the states having low-rates taxes on intangibles attempted to comply, in various ways, by means of taxes on the shares. Thus Nebraska provided for classes A and B, Class B consisting of bank shares and "competing moneyed capital," with a rate of 8 mills; and Class A, consisting of other intangibles, with a rate of 2½ mills. And Kansas modified the money and credits tax, by making bank stock and "competing moneyed capital" subject to the general property tax, leaving the decision as to what constituted "competing moneyed capital" to the assessors, with the result that only negligible amounts were returned as such.

There were, however, even then, at least three clouds on the horizon, threatening storms that speedily emerged in the shape of court decisions, temporarily upsetting all hope of stable bank taxation under the federal law, as it existed.

One, not the first in point of time, but probably the most disturbing, was the decision in the Macallen case,[2] in which a Massachusetts cor-

[1] *Flint* vs. *Stone Tracy Co.*, 220 U.S. 108.

[2] 279 U.S. 620. For an analysis of the situation, in which the Supreme Court was led to revise its decision in *Flint* v. *Stone Tracy Co.*, see among the voluminous litera-

poration, not a bank, sought the right to exclude income from exempt bonds from the income used as a measure of its Massachusetts corporate-excise tax; this contention was upheld. Though the court specifically stated that the case did not apply to banks, it seemed that the banks must be allowed likewise to deduct their "tax-exempt income"; and, since the banks are or may be heavy holders of such "tax exempts," they would frequently be able to reduce their taxable income and hence their taxes to negligible amounts. In an earlier case[1] a bank objected to including the income from "tax exempts" in the gross income subject to the District of Columbia 5-mill tax. The court held the tax to be on the bonds themselves and hence illegal. It would appear that in the general-property-tax states, as well as in the low-rate states, the banks might also exclude their tax-exempts from their assets in computing the value of their shares for the property tax.[2] Under those conditions, any method of taxing banks, available under existing laws, would be inadequate. The deduction of "tax exempts" would include not only federal, state, and local bonds but also such items as real estate mortgages on which the recording tax had been paid.

A second event, not unexpected, was the decision that, if the national banks in low-rate-tax states are accorded a low rate, equal to those to which "competing" capital is subject, then the same rate must be accorded to the shares of state banks.[3] This case, taken together with the Macallen case, led the Kansas legislature to repeal the 5-mill tax on money and credits in 1929, which, however, it felt moved to reenact in 1931.

A third development, perhaps less threatening immediately than the others, has not been pressed very far. A Florida case,[4] and an Oregon

ture on the subject, R. L. Bradford, "The Courts and Taxation," *Proceedings* XXII, 337–78.

[1] *District of Columbia* v. *Riggs National Bank*, 30 Fed. (2d) 873, 1929.

[2] A later case, *Educational Films Corporation* v. *Ward*, 51 Sup. Ct. 170, appears to have restored the status existing prior to the *Macallen* case. In this case, the New York corporate tax on income, including income on copyrighted films, was upheld.

[3] Cf. *Voran* v. *Wright*, 284 Pac. 807, and *Montana National Bank* vs. *Yellowstone Co.*, 276 U.S. 499, 1928.

[4] *Roberts* v. *American National Bank of Pensacola*, 115 So. 261, 1927.

case,[1] neither of which reached the court of last resort, held, logically enough, that since large amounts of intangibles, "in competition with the business of national banks," were not taxed at all, escaping with or without connivance of the assessor, the bank shares also could not be taxed at all.

At present (1931) the bank tax situation is unstable. There is scarcely a state in which the present arrangement could satisfactorily be made permanent. In the states where shares are subject to the general property tax, the bankers complain of discrimination in sundry forms, but principally of overvaluation of bank shares relative to other property.[2] It is asserted, with good reason, that bank shares are in such a position as to facilitate discrimination in the assessment. It apparently requires, somehow, more of a mental twist to enter a bank share with a book value of $240 at $80 than to enter a building worth $2,400 at $800. Bankers find it necessary frequently to appeal to boards of review for reduced assessment, and boards of equalization more frequently "equalize" bank stocks than almost any other type of property. This is, of course, partly due to the more readily available information.

In states having low-rate mill taxes, or their equivalent, the situation is different but no better. Either they must retain the low-rate mill taxes on money and credits and tax national bank shares at the same rate, or they must abandon the mill taxes and return to the general property tax. A tax of 3 mills, or 5 mills as the case may be, as the sole tax on banks, is regarded as being far too much of a favorable discrimination, when compared with taxes on other corporate enterprises, whose property is taxed at rates often ten times as high, whose shares and bonds may be taxed as property, which pay franchise or privilege taxes, and which possibly—in some states certainly—pay income taxes.[3] There is always the chance that the "tax exempts" of banks will reduce the taxable value and hence the tax to negligible amounts or

[1] *Brotherhood Co-op. National Bank* v. *Hurlburt*, 26 Fed. (2d) 957, 1928.

[2] Cf. especially *Survey of Bank Taxation in the United States*, by a Committee on State Taxation of the American Bankers Association, 1925, 1929, and 1931.

[3] For a presentation of this aspect see an article by the author, "The Impasse in Bank Taxation," *Bulletin*, XIII, No. 3, 70–78; also G. A. Youngquist, "Taxation of National Banks," address at annual meeting of Association of Attorneys General at Buffalo, New York, August 29, 1927. Printed privately.

zero. This threatening difficulty has been perhaps the severest check to the movement for the classified property tax. A unique situation arose in Minnesota in 1927. The legislature threatened to abolish the mill taxes, making all property, including bank stocks, taxable at the uniform rate; but this did not suit the national banks and other financial interests. Of the 271 national banks in the state, 264 filed with the tax commission written agreements, backed by authorizations from their stockholders, to pay their taxes at the general property tax rate for the ensuing two years. The legislature dropped the repeal bill, but provided for an interim legislative commission to report at the next session.

In the six states with income taxes on the banks, the situation is no better, for the income tax on banks must not be at a higher rate than that on other business enterprises. The latter must pay property taxes, as well as other miscellaneous taxes that cannot be exacted from the banks under Section 5219. While the banks seem to favor income as the tax basis,[1] state tax officials, on the whole, oppose it, although several of them apparently deem it satisfactory.

At present (1931) the repeal of Section 5219 is still demanded. Many think its repeal would not jeopardize the bankers' position, whether its enactment was ever warranted or not: "There were undoubtedly ample reasons for incorporating in Section 5219 at the time of its enactment provision that the taxation of the shares of the national banks 'shall not be at a greater rate than is assessed upon moneyed capital in the hands of individual citizens of such state.' "[2] The Fourteenth Amendment which guarantees to every person, and to every corporation as well,

the equal protection of the laws, had not been adopted at the time. National banks were then a mere experiment and were regarded by many eminent statesmen as an unwarranted encroachment upon state and private rights. In these circumstances, Congress evidently felt that the statute in question was necessary to give to these infant institutions a fair start and to protect them while becoming established from the possible danger of unjust and

[1] See, for example, Thornton Cooke, "The Way Out in Taxation," *American Bankers Association Journal*, November, 1927.

[2] S. Lord, "Presidential Address: The Bretton Woods Resolutions," *Proceedings*, XV (1922), 242–60.

discriminatory state laws. . . . . But . . . . national banks are now so firmly intrenched that they are no longer menaced by the competition of such moneyed capital as is now taxed under low-rate "money and credits" and income tax laws. On the contrary, like all other honest taxpayers, they are greatly benefited by these laws.[1]

The banks, on the other hand, assert that the hazard of discrimination is real.[2] According to their view it is not enough that national banks be not discriminated against as compared to the state banks; they fear as well that the states might discriminate against all financial institutions as a class.

It is clear that the national banks have good grounds for desiring protection against discriminatory taxation, and for demanding a wider classification than is proposed in the restriction that they must not be discriminated against as compared with state banks. That, at least, is true in the general-property-tax states. For these states have, in fact, long been discriminating against both state and national banks, in a way that, strangely enough, is not often mentioned. The discrimination inheres in the particular method of applying this tax to banks. The bill of complaints includes the following particulars:

First, while the banks are presumably taxed on their real estate locally as are other owners of real estate, and have in that respect no grounds for complaint, the case is otherwise with respect to the shares. As has been indicated above, the shares are in many cases appraised at a higher percentage of true value than property in general. This is not true in all states, but it is generally true.

Second, the banks are generally the only corporations, except certain public utility corporations centrally assessed, which, in effect, are consistently taxed on their corporate excess.[3] Their shares being returnable by the banks, they are fully listed; this is rarely true of shares of other corporations. In other words, the discrimination against the banks is due in part to the fact that the banks cannot participate

[1] *Ibid.*, pp. 257–58.

[2] See, for example, Martin Saxe, "The Threatened Discrimination in Banking Taxation," *Bankers Magazine*, December, 1927.

[3] The tax on the bank shares, allowing for deduction of assessed value of locally taxed real estate, is, in effect though not in form, a tax on corporate excess of the bank.

ratably with other taxpayers in the prevailing tax evasion that comes about through nonlisting of taxable property and undervaluation thereof.[1]

In the third place, in some of the general-property-tax states, the banks, in appraising their shares, are allowed to deduct the assessed, not the book value, of the bank-owned real estate. To the extent that the real estate, though taxed at the same assessment ratio as other local real estate, is yet underassessed in comparison with the shares, there is discrimination.

Yet the property taxes on the banks have been so convenient and so long and consistently levied in their present form that the states had come to regard this tax as thoroughly equitable. Evidence is found in the fact that the states, when granting low-rate taxes to money and credits, almost invariably retained bank shares under the general property tax. The general property tax had become established through Section 5219. And the irony is that this section, designed at first to protect banks, became the fixed federal requirement which fastened upon them, longer than upon any other property of the same class, the antiquated general property tax.

At present, after long negotiation, the American Bankers Association and the Association of States, a loose organization of state officials interested in banking tax reform, have reached a tentative agreement on an amendment to Section 5219.[2] Inasmuch as it has merely been proposed, and no favorable Congressional action has been taken, it is enough to mention it here.

II. INVESTMENT BANKS

In most states the functional difference between investment banking and commercial banking is not sufficiently recognized to warrant different taxation. Trust companies, savings banks, and, to some extent, building and loan associations are usually taxed on the same basis

[1] For the prevalence of such evasion, cf. chaps. xi and xiii, *infra*.

[2] The two principal features of the proposed amendment were (1) a millage tax adapted to those states imposing low rates on money and credits, and (2) provision for securing statistical data of income that would insure equality of taxation as between banks and other taxpayers.

as commercial banks. There are, however, two principal variant methods: one, used chiefly in the New England states, is a tax upon savings bank deposits; the other is the adaptation of the general property tax to building and loan associations.

Under the general property tax, bank deposits are taxable to the depositors at the same rate as other property, unless they have been given a special classification and thereby made subject to a different rate or a different percentage assessment, as in Virginia or Montana.

TABLE 48

TAXES ON SAVINGS BANKS DEPOSITS, AND THEIR RATIO IN 1916 TO GROSS EARNINGS IN SPECIFIED STATES*

State	Rate (per Cent of Deposits)	Ratio of Tax to Gross Earnings (per Cent)
Maine	½ of 1	8.32
New Hampshire	¾ of 1	9.17
Vermont	7/10 of 1	12.2
Massachusetts	½ of 1	3.79
Rhode Island	4/10 of 1	8.5
Connecticut	¼ of 1	4.27
Maryland	¼ of 1	5.7

*Milton W. Harrison, "Taxation of Banks," *Proceedings*, XII (1919), 35–68. The tax rate on savings deposits in New Hampshire is now (1931) ½ of 1 per cent, and, in Vermont, 6/10 of 1 per cent. In New York, savings banks pay a franchise tax of 6/10 of 1 per cent in lieu of the income tax.

In fact, only a small part of bank deposits is actually taxed, except where a low rate has made listing non-confiscatory, and even in such cases the listing is not complete. It is not possible to tax bank deposits to the depositors. One alternative is to tax the deposits to the bank and exempt the depositors, as is done in all of the New England states, and to a smaller degree, by New York, New Jersey, and Maryland, as shown partly in Table 48.

The taxes are in lieu of all other taxes on the deposits, both to the banks and to the depositors. The banks are locally taxed on the real estate they own. It is not quite correct to say that the tax is measured by deposits, for capital, surplus, or undivided profits are in some in-

stances added to deposits in determining the tax.[1] It is argued by the bankers that the tax on deposits is too heavy, and discourages accumulation. Compared with the rate on bank deposits taxed under the general property tax, the tax is light. Compared with the bank deposits of the country as a whole on the basis of the tax that is actually paid on them, the tax is heavy. The principal reason for the tax is doubtless the fact that bank deposits cannot be reached in any other way.

It is charged against the practices of many states in taxing building and loan associations, that they result in objectionable double taxation. Where these associations have capital stock like other corporations, they do not differ from a bank, and the shares might well be and often are taxed on the same basis as shares of a commercial bank. Where the associations are mutual, and have no capital stock, or even where they have such shares, the principal part of the funds employed is derived from the contributing savers, whose equities are indicated by means of partial-payment shares, withdrawal values, etc. The funds are typically loaned on urban real estate, which is generally taxed without deduction for the debt. Taxation of the shares as property to the shareholders is double taxation of a very obnoxious character. Where an attempt is made to tax the shares in the hands of the holders, they are listed almost as infrequently as are other intangibles, and the only just complaint arises from the unfair burden imposed upon the few that are caught. Where taxation of the shares to the association is attempted, with the right to reimbursement from the shareholders, there is no way in which the shares can escape, and the tax comes to be very unfair. It is practically equivalent to forbidding this form of investment banking.

In recent years the functions of commercial and investment banking, while distinct as functions, are not always separately performed by different organizations. Building and loan associations and other investment organizations, in fact, often do a considerable checking business, while even national banks deal in long-term credit. There seems to be no reason for the preferred position some investment organizations enjoy in comparison with so-called commercial banks.

[1] For the development of this type of taxes in New England, cf. K. M. Williamson, "State Taxes on Savings Deposits in New England," *American Economic Review*, XVIII, 45–64.

The application of the general property tax on bank shares furnishes a striking and unusual example of taxation according to equities rather than according to possessions. The application of the property tax on this basis to one class of taxpayers, while practically all others are taxed merely on the basis of their tangible possessions, has created the absurdities in the bank tax situation that were to be expected when incongruent parts of two different tax bases are combined.

CHAPTER IX

TAXATION OF SPECIAL FORMS OF CAPITAL AND LAND

Attention has been directed to the classified property tax which provides differential taxation of different kinds of property. The adjustments of this sort have been almost entirely confined to representative property. That the classified property tax has been checked in its extension by the peculiar condition surrounding one form of intangibles, namely, bank shares, has been shown. In the present chapter will be discussed certain characteristics of producer's capital which may render the rigid application of a uniform property tax to all tangible producer's goods undesirable. The types of property selected may be designated as *circulating*, *appreciating*, and *depreciating* assets.

I. CIRCULATING CAPITAL

Merchants' and manufacturers' stocks are alike in that they are normally held temporarily for sale at an increase above the original purchase price, due to the creation of time, place, possession, or form utilities. These stocks are characterized by a relatively rapid turnover, compared with such property as land, buildings, and machinery. Despite their general uniformity in this respect, the different classes within the general group exhibit numerous differences out of which special tax problems arise.[1]

In some enterprises there is but little seasonal variation in the volume of trade or output. The amount of stock on hand on the tax day is, therefore, representative of the amount carried on hand throughout the year, and may reasonably be accepted as a basis for the ad valorem tax. In other enterprises the stock in trade varies widely. A vegetable canning plant, for example, whose season begins

[1] The literature on this aspect of property taxation is remarkably scarce and inadequate. Cf. E. H. Bodden, "Taxation of Merchants' and Manufacturers' Stock," *Proceedings*, 1917, pp. 118–23.

in June, would have nothing on hand on the first day of May, which date is common for the tax day.[1] An ice storage plant, on the other hand, would have most of the season's stock on hand at that date. It is clear that the latter enterprise would have to pay a much heavier tax than the former.

Ad valorem taxation of circulating capital is required by the uniformity rule in most states. One type of adjustment is that of employing an average valuation, instead of taking the value of the stock as of the tax day provided for property in general. Several states[2] take the average for the year as the basis. There are several ways of computing this average value. In Kansas, an estimate of the average value for each of the 12 months of the past year is required; the sum of the estimates is then divided by the number of months, and the quotient is taken as the basis for the tax on the stock. Another method is followed in Tennessee where the sum of the highest amount and the lowest amount during the year is divided by 2 and the quotient is accepted as the basis. In Missouri, the basis of the manufacturers' and merchants' tax is the highest amount on hand between the first Monday in March and the first Monday in June. This is a special method of determining the value, not a different tax, and does not violate the rule of uniformity, though it is not always applicable to all merchants and manufacturers.

A few states have specific taxes in lieu of the ad valorem tax. Thus Minnesota imposes a tax of $\frac{1}{4}$ of 1 mill per bushel on wheat and flax, and of $\frac{1}{8}$ of 1 mill per bushel on other grain handled in elevators of the state, in lieu of all other taxes on the grain, but not in lieu of taxes on the fixed capital of the elevators.[3] Such specific taxes, sometimes added to the ad valorem tax, are common in the extractive industries.

It is obvious that the peculiarities of circulating capital must result in pronounced inequalities among different groups of merchants and manufacturers, if we relate the tax to the average value of circulating

[1] Hereafter the term "tax day" is used to designate the day as of which the assessment is made.

[2] In Alabama, Connecticut, the District of Columbia, Iowa, Kansas, Louisiana, Maryland, Missouri, Nebraska, Oklahoma, South Carolina, Tennessee, and Wyoming.

[3] A similar tax occurs in Wisconsin, where it applies to coal dealers also.

capital employed. And if the tax is related to the net income, the discrepancies must be still greater. But the significance of these discrepancies may be easily misunderstood and misstated. For the property tax on merchants or manufacturers is not, and cannot, be expected to be proportional to income.[1] The general property tax is a charge upon the use of property in a given district. As such, it is a fairly predictable fixed charge.

Nor is it easy to determine what deleterious effects, if any, flow from the discriminations, so long as there are no arbitrary inequalities among members of the same class, so long as there are no wide variations in the tax rates among taxing districts, and so long as the rates or the assessment ratios do not change widely and unpredictably from year to year. Thus a differential tax on one type of business as compared with that of another will be accepted as a cost of doing business; and the necessary adjustment in capital employment will be effected. But, where the assessments are arbitrary, where the rates are erratic from year to year, or where they differ sharply in two competitive jurisdictions, the necessary adjustments cannot take place without injury to individual taxpayers or groups. The variations in ratios of taxes to income, or to turnover of capital, do not necessarily make the property tax on circulating capital objectionable; but they constitute an argument for uniform valuation, larger taxing districts, and stable tax rates.

II. CLASSIFICATION OF REAL ESTATE

The belief is all but universal that all taxable real estate should be taxed alike. Reference to chapter vii will show that where the state constitution permits limited classification, it is nearly always required that real estate shall be uniformly taxed. Where the constitution permits general classification there are few cases in which real estate is not all in the same class.[2] But some insist that there are as valid reasons for classifying real property as for differential treatment of intangibles and personalty. The nature of the demand for differentiation of taxa-

[1] See chap. iii, *supra*. Cf. also Leland, "Tax Problems and a Tax Program for Real Estate," *Bulletin*, XV, 235. "To criticize the property tax for not being an income tax is like criticizing the mouse for not being an elephant."

[2] Minnesota, Montana, North Dakota, the cities of Pittsburgh and Scranton in Pennsylvania, and a few less conspicuous cases, form the list of exceptions.

tion of real estate, particularly land, is thus set forth by J. V. Van Sickle:

> With the breakdown of the general property tax many remedies have been proposed. One is to exempt personalty and to introduce in its stead a moderate state income tax. Another is to classify property and to subject the different classes to different rates. Intangible personalty would bear the lowest rate, tangible personalty a somewhat higher rate, and real estate the highest rates. In either case real estate would remain liable to the prevailing high rates.
>
> While these remedies are preferable to the existing system, they continue for land taxation the defect inherent in the general property tax. They propose a rule of uniformity where there is no uniformity. They assume that land is land, whether it be agricultural land, or residential land, forest land or mineral land. As a matter of fact there is as much need for distinguishing between different kinds of land as between land and personalty. This need is not due to the administrative impossibility of taxing different types of land at the same rate, but to considerations of public policy. The very fact that a rule of uniformity can be enforced successfully is what makes the general property tax detrimental to wise land utilization. The uniform rule cannot be and should not be applied to tangibles and intangibles; it can be applied to land, but should not be.[1]

The particular type of land employed by Van Sickle to exemplify the deleterious effect of the uniform rule of property taxation upon land utilization is land on the outskirts of cities waiting idly for a higher use as residential or business sites, though other types are mentioned. It is contended that market value as a basis for taxes on such land results in taxes so high that the land cannot be used for agriculture but must be sold to promoters and speculators who usually succeed in selling it, when subdivided, to persons hoping for speculative gain, or hoping to "build on it some day." These buyers as a rule fail to reckon on taxes as a part of the carrying cost during the interim until the land can be put to its higher use. The reason for the high taxes is that the assessed value is based not only on current return from agricultural use but on the present value of future high returns. If the land could be classified and remain classified as agricultural land until it was "ripe" for the higher use, and the taxable value based upon the

[1] J. V. Van Sickle, "Classification of Land for Taxation," *Quarterly Journal of Economics*, XLII, 94–116.

current return from such use, it could be utilized longer for its present purpose, since taxes would not constitute a prohibitive carrying charge. If later, when "ripe," the land were reclassified and made taxable on the basis of the higher return, the conversion to the higher use would be hastened. The effect would be to check excessive expansion of "city additions," but to utilize all "ripe" land for site purposes before taking in land not yet needed for such purposes.

It is not the intention here to enter upon a discussion of the feasibility of developing a classified property tax upon real estate as a device to control or direct the growth of cities. Before any such tax can be developed there must be a suitable classification of land. This would also be desirable for the successful administration of even a uniform property tax on real estate. It is moreover necessary as a basis for any purposive control of the utilization of the natural resources of the country. About twenty years ago there was a movement for land classification to facilitate, statistically and administratively, the assessment of land. Ten years later there was another movement for an economic classification to serve much broader purposes. The latter movement has reached its highest development in Michigan, where the rapid increase in tax delinquency of cut-over lands has caused genuine alarm.

In 1909, L. G. Powers, of the Bureau of the Census, suggested to the Third Conference of the National Tax Association[1] that in the interest of scientific assessment real estate should be classified and each class listed separately. The Conference provided a committee which studied the project during the following year and reported[2] at the next Conference, recommending a classification of urban land into: (1) city and town lots actually used as building sites; (2) city and town lots, unimproved, but, by reason of location, having no other prospective uses than as building sites; and (3) areas on the outskirts of cities, whether platted or unplatted, which by reason of location and prospective use as building sites have such value as to preclude their use as agricultural lands.[3] The committee later modified the classification,[4] but as given above it calls particular attention to the class which involves the greatest difficulty, namely, land in the anomalous condition of having been

[1] "Uniform Listing of Real Estate," *Proceedings*, III (1909), 321–32.

[2] *Proceedings*, IV (1910), 313–39.

[3] *Ibid.*, pp. 320–21. [4] *Ibid.*, p. 322.

abandoned for agricultural use, yet not being "ripe" for any other. Such land is particularly difficult to appraise fairly. In "boom" periods, sale prices mount out of all reason, leaving no relationship to the income from their current use, which, after deduction of taxes, may be a negative quantity. In "hard" times, it may have no ascertainable selling value at all.

TABLE 49

DESCRIPTIVE CLASSIFICATION OF REAL ESTATE, AS PRESCRIBED BY THE KANSAS STATE TAX COMMISSION, 1911

Description	Serial Number	All	NE. ¼	E. ½ of NW. ¼
Identification:				
Section	....	12	15	24
Township	....	10	11	11
Range	....	20 E.	20 E.	20 E.
Number of acres	1	640	160	80
According to characteristics:				
Bottom land	2	240	40	20
Upland	3	400	120	60
Can be plowed and tilled	4	480	125	50
According to use:				
In cultivation	5	290	90	35
Arable	6	40	10	5
Timber:				
Used for pasture	7	25	15	10
Not so used	8	5	5	5
Orchard	9	10	2	2
Pasture:				
Tillable	10	150	25	10
Nontillable	11	100	5	5
Waste	12	20	8	8

The Committee also recommended a classification of rural lands as (1) cultivated, (2) arable, (3) timber, (4) orchard, (5) waste, (6) mineral, (7) quarry, and (8) oil and gas lands. Some of the states took the suggestions seriously. Thus in Kansas, in 1911, the tax law was amended so as to permit the classification. The following classification, adjusted to the agricultural conditions in Kansas, was introduced in that state by administrative order of the State Tax Commission[1] as a part of

[1] Samuel T. Howe, "Classification of Real Estate," *Proceedings*, 1912, pp. 355–69.

the regular assessment procedure. Table 49 shows, in a slightly modified form, a leaf from the assessors' field book, covering one section of land.

Similar systems of classification have been instituted elsewhere, sometimes in greater detail. Thus, in Montana the county commissioners were required to levy annually not to exceed 1 mill for the "classification fund" until the classification was completed. For statistical purposes there is need for such classification. It should aid in having all land placed on the list and should be useful for valuation and equalization purposes. However, Mr. Howe himself ventured the observation: "Whether the data gathered can be made of practical use in future real estate assessments is conjectural."[1] The local assessors, he feared—and rightly, as experience has shown—were not capable of making extensive use of the technique thus provided. It is doubtful if anything definitely valuable has come from the movement.

The comparative futility of this and, to a less degree, of other attempts to establish a "scientific" basis for real estate values, by breaking up each parcel into its component parts, establishing a value for each part on the basis of comparison with similar parts of other parcels, and combining the component values for each parcel, is due to the fact that assessors, legislators, and courts have relied almost exclusively, wherever possible, upon market value as the only correct basis for the tax. They have been able to do so because, on account of the prevailing fee simple land tenure, and on account of the frequent transfers of land, there has been a fairly ascertainable market value to serve as a basis. Hence the need for a statistical classification has not been obvious, and to the untrained local assessors it has been meaningless and useless.

III. FOREST LANDS

The necessity for classification of real estate may be most convincingly shown in the effects of the general property tax upon land that is suited for forestry. The fundamental characteristic of forestry is the long time required for the production of a crop of timber.[2] The problem

[1] *Ibid.*, p. 362.

[2] O. F. Barnes, "Proposed System of Forestry Taxation," *Proceedings*, XV (1922), 143–49.

is modified by the circumstance that timber is a vanishing, though replaceable, natural resource. With the disappearance of the timber are connected other losses, such as of lands through erosion, and of lives and property through floods.[1] As our virgin timber disappears, it will, of course, be necessary to develop a system of growing timber, unless we are to rely entirely upon foreign supplies.

As lumbering is at present carried on, the return from forestry in any particular district is periodic or occasional. In virgin timber, a clean sweep is usually made of the entire growth, whether mature or not, then a long period must elapse before another crop can be exploited. The occasional character of the income and revenue could be avoided if, in European fashion, only the mature trees were cut; but American lumbering practices are ill-adapted to selective cutting.

The original cost of afforestation may be small. The land is seldom valuable for other purposes, and the costs of planting and maintenance may be small. Nevertheless, the landowner must wait for his return until the timber can be sold. Meanwhile the costs of the enterprise accrue, including taxes, interest, rent, etc. If afforestation is to continue, the expected return must be at least the equivalent of the present value of the entire cost of the undertaking, computed as of the date of planting.

Under the ad valorem tax on timber, if the assessor complies with the law in his valuation, the tax base in any given year is the present value of the prospective net returns. It is the net yield at the time of maturity, discounted for the interval, less the present value of taxes to be paid and of prospective costs during the interval. The estimation of present value is a difficult task. All the factors are uncertain: the yield can only be guessed at, partly because the cut cannot be accurately forecast, and the price at that time is uncertain; the assumed rate of interest may prove to be erroneous; even the taxes to be paid before the cutting are not accurately determinable. Because of the compound interest feature, a small error made in the early part of the growing period may mean many times the difference between a fair profit and a net loss. Further complications result from risks, such as fire or pests, the losses from which may wipe out all outlays and interest

[1] Herman H. Chapman, "The Taxation of Forest Property," *Proceedings*, 1921, pp. 36–47.

sacrifices, as well as tax payments for a period of perhaps 75 years. In case of orchards and special fruit groves there are further risks from frost, pests, and loss of market. To make allowance for all such risks is not a simple matter. A small error in any factor, persisting from year to year, may be serious in its consequences for the forest owner.

The ad valorem tax on forest property also has the undesirable characteristic of making irregular returns to the public treasury. While the virgin timber remains subject to the property tax, the revenue is fairly constant, but as soon as the land is "cut over" practically nothing is left on which to base the tax, unless properties of other kinds are found in the district. The tax base in these districts would gradually increase, as the day of the second cutting would approach, and then, with this cutting sold, as suddenly disappear. This alternate swelling and shrinking of the tax base would tend to affect severely the tax rates, both of forest and other property. In turn, it would affect the percentage of delinquency.[1]

The mass of information now being acquired by the Forest Taxation Inquiry of the Forest Service of the United States Department of Agriculture discloses that the delinquency, especially on cut-over lands, is growing more and more serious. Table 50 shows the delinquency of taxes on unplatted land in sixteen timber counties of Minnesota for the years 1917, 1921, 1924, and 1927. In 1917 the percentage of delinquency exceeded 10 per cent in only two counties of the sixteen, and the highest percentage was 12.8, while in 1927, there were ten counties in which taxes and special assessments were delinquent to an extent greater than 10 per cent of the current year's levy, and the highest percentage was 36. The seriousness of the situation is emphasized when the delinquency is expressed in the form of the percentage which the delinquent unplatted land was of the total unplatted land. In 1926–28, 27.7 per cent of the total area in these sixteen counties was delinquent, and in two counties the percentages were 52.9 and 56.6, respectively. Similar delinquency records are found for Wisconsin, Michigan, Wash-

[1] For a striking demonstration of the fiscal effects upon these taxing districts of the irregularity of the returns, see F. R. Fairchild, in a preliminary report (*Proceedings*, 1927, pp. 367–414). This is part of an extensive forest taxation inquiry, directed by Professor Fairchild under the auspices of the United States Department of Agriculture, now in progress.

ington, Oregon, and will probably be found to exist wherever there are cut-over lands.

TABLE 50

DELINQUENCY IN COLLECTION OF TAXES AND SPECIAL ASSESSMENTS IN PERCENTAGES OF THE CURRENT LEVIES, SELECTED YEARS, IN SIXTEEN NORTHEASTERN COUNTIES OF MINNESOTA*

County	Percentages Delinquent			
	1917	1921	1924	1927
Cook	12.8	0.1§	12.8	15.9
Lake	0.9§	10.1	11.6	15.1
Itasca	2.3	1.9	0.4	3.8
St. Louis	0.3	2.5	2.7	2.1
Beltrami	9.3	16.1	19.5	23.4
Koochiching	10.7	5.5	24.2	21.9
Lake of the Woods	‡	‡	39.4	36.0
Aitkin	4.7	11.2	17.9	26.0
Carlton	0.0	3.8	5.4	5.9
Cass	0.9§	14.2	11.9	19.3
Clearwater	3.5	13.6	3.7	13.5
Crow Wing	6.0	7.8	5.7	0.9
Hubbard	1.7§	7.2	7.0	10.1
Kanabec	1.3§	4.6	2.3	2.0
Mille Lacs	0.4§	4.7	4.2	1.6
Pine	0.8§	7.2	4.6	15.3
Total, sixteen counties	1.6	4.0	4.9	5.5
State excluding sixteen counties	†	2.8	1.1	†

* F. R. Fairchild, Director Forest Taxation Inquiry, *Progress Report*, No. 10 (August, 1930), Table 5.

† Not available.

‡ Part of Beltrami County.

§ Surplus.

It is not necessary to charge all of these bad features to the presence of the general property tax. These conditions are in part the hitherto unpaid element of the cost of the ruthless exploitation of the timber resources by the lumber companies, and the subsequent equally ruthless exploitation of ignorant buyers by land sharks. There are perhaps

other factors. Thus, in these regions, a great deal of the land is in public ownership, and hence exempt from taxation. Table 51 shows the percentages of (1) tax-paying, (2) tax-delinquent, and (3) tax-exempt lands in the same Minnesota counties for 1926. In all sixteen counties,

TABLE 51

UNPLATTED LAND, TAX-PAYING, TAX-DELINQUENT, AND TAX-EXEMPT, 1926, IN SIXTEEN NORTHEASTERN MINNESOTA COUNTIES*

County	Percentage			
	Tax-paying	Tax-delinquent	Tax-exempt	Total
Cook	46.4	8.0	45.6	100.0
Lake	46.1	16.9	37.0	100.0
Itasca	55.1	22.4	22.5	100.0
St. Louis	71.8	10.4	17.8	100.0
Beltrami	36.5	41.1	22.4	100.0
Koochiching	28.5	22.6	48.9	100.0
Lake of the Woods	36.7	47.9	15.4	100.0
Aitkin	61.8	31.8	6.4	100.0
Carlton	70.2	20.5	9.3	100.0
Cass	55.6	21.9	22.5	100.0
Clearwater	54.3	20.9	24.8	100.0
Crow Wing	79.8	19.4	0.8	100.0
Hubbard	67.1	30.9	2.4	100.0
Kanabec	94.1	5.9	0.0	100.0
Mille Lacs	86.1	13.6	0.3	100.0
Pine	75.8	23.6	0.6	100.0
Total, sixteen counties	56.7	21.7	21.6	100.0

* F. R. Fairchild, *Progress Report*, No. 10 (August, 1930), Table 8.

21.6 per cent of the area of unplatted land was exempt; and in Koochiching county, 48.9 per cent was exempt. The effect of the exemption is uncertain, however, for the exempt areas do not require the same public service per acre as does the taxable land. Partial compensation also exists in the form of liberal state aid and federal appropriations for forestry roads. Even so, it is probable that the concentration of exempt land in many cases aggravates the bad condition.

Table 52 shows that the index of tax delinquency of acreage prop-

erty in four Oregon and Washington timber counties has risen in all four, though in Grays Harbor, Washington, the index is lower in 1928 than in 1923, but higher in both these years than in 1918. But the most signficant feature of the table is the contrast between the rise in the index for delinquency for one year only and the rise in the delin-

TABLE 52

TREND IN DELINQUENT AREA OF ACREAGE REAL ESTATE, 1918–28, INDEX NUMBER FOR SELECTED COUNTIES IN OREGON AND WASHINGTON*

STATE, COUNTY, AND DATE	TOTAL	DELINQUENT FOR		
		Consecutive Levies	Four Consecutive Levies and Over	One Year Only
Oregon:				
Clatsop				
September 1, 1918..	100	100	100	100
September 1, 1923..	264	255	124	266
September 1, 1928..	391	409	906	358
Tillamook				
September 1, 1918..	100	100	100	100
September 1, 1923..	181	186	313	137
September 1, 1928..	304	311	1,847	148
Washington:				
Grays Harbor				
December 31, 1918..	100	100	100	100
December 31, 1923..	123	113	164	68
September 25, 1928.	110	106	186	68
Lewis..............				
December 31, 1918..	100	100	100	100
December 31, 1923..	283	291	1,186	195
October 5, 1928.....	402	418	1,695	323

* F. R. Fairchild, Director of Forest Taxation Inquiry, *Progress Report* No. 11 (August 15, 1930), Table 10.

quency for consecutive levies, especially in the column showing delinquencies for four or more consecutive years. Plainly, the land upon which the taxes will not be paid, and which must therefore revert to the state, is rapidly increasing.

It appears from Table 53 to be extremely probable that the declining value of the lands in the cut-over regions is due in part to excessive assessments, and that the excessive assessments in turn tend to depress the values still farther. In nearly all the towns the ratio of assessor's

valuation to the value as found by the investigators was higher than 100 per cent. It is noteworthy that cut-over holdings are particularly overassessed. On the other hand, operated farms, which presumably yield an income, are not generally overassessed, though they manifest striking inequalities in the assessment ratio.

TABLE 53

COMPARISON OF ASSESSOR'S "FULL AND TRUE" VALUE WITH APPRAISED VALUE, BY PROPERTY CLASSES, IN SELECTED MINNESOTA TOWNS, 1926*

Town	Ratio of Assessor's "True and Full" Value to Appraised Value					
	Farms		Cut-over Holdings		Resort (per Cent)	Total (per Cent)
	Operated (per Cent)	Abandoned (per Cent)	Small (per Cent)	Large (per Cent)		
Eckles	64	111	140	†	†	92
Frohn	60	†	175	215	72	86
Hagali	72	†	278	†	106	116
Clay	158	†	292	301	147	247
Crow Wing Lake	90	181	294	†	106	131
Lake Emma	92	†	187	206	84	116
Schoolcraft	107	†	300	336	360	272
T. 59 N., R. 8 W.	34	†	90	95	†	92
T. 58 N., R. 6 W.	†	†	250	272	†	236
T. 54 N., R. 10 W.	51	†	127	133	†	100
Embarrass	26	†	60	75	†	36
Toivola	46	†	106	180	†	100
Ts. 54 and 55 N., R. 14 W.	†	†	215	216	†	197

* From several tables in F. R. Fairchild, Director of Forest Taxation Inquiry, *Progress Report*, No. 9 (July 1, 1930).

† Data not available.

The taxation of forest lands, which are almost universally taxed in the same manner as other real property, has received considerable publicity, but the remedies proposed have been only slowly recognized in the tax laws.[1] In 1909 a series of investigations began.[2] The following

[1] Cf. F. R. Fairchild, Director of Forest Taxation Inquiry, *Progress Report*, No. 7 (March 15, 1930), for a "Digest of State Forest Tax Laws Enacted or Revised during the Calendar Year 1929."

[2] Sponsored by the National Conservation Commission and the National Tax Association.

summary[1] indicates the status of the movement in 1922, with reference to the generally accepted conclusions regarding forestry taxation:

1. That as a rule forests have been underassessed far below their true value, and that, owing to this circumstance, combined with lax administration of the tax laws, forests have not generally been subject to excessive taxation;

2. That, barring certain localities and some individual cases, taxation has not been responsible for destruction of the forests or for failure to reforest cut-over lands or to practice forestry. These results have been due to other causes more potent than taxation;

3. That the property tax is fundamentally defective when applied to the total value of land and trees of a growing forest, resulting, if strictly administered, in grossly excessive taxation of forests, as compared with other forms of property yielding annual incomes;

4. That, if at any time other conditions should become favorable to the practice of forestry as a private business enterprise, continuance of the prevailing property tax upon growing forests would prove an insufferable obstacle;

5. That the remedy lies in the relief of growing forests from the rigors of the property tax, through the more or less complete application of the yield tax;

6. That the attempt to promote forestry by tax exemptions, as embodied in earlier legislation, is quite futile;

7. That the mature or virgin forest presents a distinct problem, toward the solution of which little has yet been accomplished.

The early proposals would entirely exempt growing forests from the property tax and, in lieu thereof, subject them to a pure yield tax.[2] This solution, however, involves too many practical difficulties to the public treasuries.[3] As early as 1913, therefore, the Committee on Forestry Taxation recommended a "combination tax, consisting of an annual tax on the land, valued as bare land and taxed at a rate equal to half the prevailing rate of the general property tax, together with a 10 per cent yield tax upon forest products. It is safe to say that the

[1] F. R. Fairchild, (chairman), "Report of the Committee on Forest Taxation," *Proceedings*, XV (1922), 127–39.

[2] Cf. *Report of the National Conservation Commission, 1909.*

[3] For an elaboration of methods proposed to equalize or stabilize the revenue to the local districts, cf. reports of committees on Forestry Taxation of National Tax Association, 1909 and 1913, *Proceedings*, Vols. III and VII.

fundamental idea of this plan has gained general acceptance among the advocates of tax reform."[1] There haye been many variations of this plan; but many of them have not been given any practical tests. Only a few states, such as New York,[2] Michigan, and the New England and Pacific Coast states, have made serious attempts to adjust their tax systems to the requirements of forestry.

Since 1913, the movement seems to have turned away from the yield tax as a complete substitute for the property tax. The Committee on Forest Taxation of the National Tax Association in 1922[3] recommended a property tax on the bare land value of the forested land at the local property tax rate, together with a yield tax similar to a business income tax. The influence of the recommendations for a business income tax of the Committee of the National Tax Association in 1919[4] is clearly seen:

> The yield tax would appear, not as an additional tax in lieu of the property tax, but in the place of the business tax. The forestry business is fairly simple. It is doubtful if the complicated system that has been worked out for manufacturing and mercantile buisness is necessary or desirable for forests. The simple tax on the stumpage value of forest products corresponds fairly well to a tax on net income and would probably be the best means of applying the business tax principle to the forests. The rate of the yield tax should correspond to the rate of the business tax on other enterprises.[5]

Such a law summarized would be, as quoted:

> (1) The law shall provide criteria for determining what is "mature timber."
>
> (2) All trees other than mature timber, shall be exempt from taxation, and in assessing land no account should be taken of the value of any trees, except mature timber. Forest lands shall be assessed no higher than similar bare lands in the neighborhood.
>
> (3) All forest products (with the exception of certain small quantities taken by the owner or the tenant for his own use) shall be subject to a yield tax, at a rate corresponding to the business tax on other businesses. The

[1] Fairchild, *Proceedings*, XV (1922), 129.

[2] Cf. C. R. Pettis, "Forest Taxation in New York," *Proceedings*, XIV (1921), 58–62.

[3] *Proceedings*, XV, 132–35.

[4] *Proceedings*, XII, pp. 426–70.

[5] *Proceedings*, XV, 134.

rate would perhaps be in the neighborhood of 5 per cent. The yield tax should be administered by state officers, and the proceeds ordinarily distributed to the towns or counties.

(4) It is assumed that if there is an individual income tax, individual forest incomes will be treated exactly like other incomes.[1]

Such a combination tax would still leave the timberland owner under the disadvantage of paying taxes on the bare land value during the growth of the timber, but this disadvantage was regarded by the committee as inevitable. The local public treasuries would to that extent be regularly supplied with funds. The owner of the timber would be relieved from the advance payments of property taxes based on the market value of the growing timber. In case of loss of the growth before cutting there would be no loss of taxes. The exemption of forests should apply only to growing timber.

The simplest procedure would be to classify permanently as forest land all such land as was best adapted to the growing of timber, then subject it to a bare-land-value property tax, with the yield tax payable when the timber was cut. This is the system employed in Michigan where the Economic Soil Survey Bureau has made or is making a permanent classification.[2] Once classified, the land remains "timber land" unless the classification is changed for good reason by the state tax commission.[3]

The revenue from a yield tax alone would probably be irregular. Therefore, no local district, if any appreciable part of its revenue was derived from timber property, could accept such a feast-or-famine program. The irregular nature of the revenue could be remedied by enlarging the tax district, or the revenue from the yield tax in the entire state might go into a state fund, to be divided among the local tax districts. Under this arrangement each local district would receive its share of the total collections regardless of whether little or much of the yield tax was collected locally. The receipts would be spread more evenly over the period. Another reason for central administration is

[1] *Ibid.*, p. 134.

[2] Such is also the system recommended for West Virginia in Professor R. G. Blakey's *Report on Taxation in West Virginia, 1930*, pp. 391–410.

[3] Barnes, *op. cit.*, p. 148.

that state officers would in any case be required to establish standards and prevent abuses in the classification of forest lands. Representatives of the state forester could periodically inspect the areas, in order to insure uniformity of administration.

At the time of the adoption of the yield tax there would be some timber on which the property tax had been paid for a number of years. To the extent that the property tax had been paid, it would be unfair to impose the full yield tax. Thus a 15 per cent yield tax imposed on timber on which a property tax had been paid for 60 years would be unfair as compared with a yield tax of the same amount on timber property that had enjoyed exemption for nearly the full period of its growth. Excessive taxation could be avoided by graduating the yield tax on the basis of the time elapsed since the initiation of the exemption from the property tax. A similar problem would arise in case the yield tax should be abolished, and the property tax reimposed.

IV. MINERAL PROPERTY

In some respects, the taxation of wasting assets, of which minerals and mining property are the chief items, is similar to the taxation of growing assets. In both cases there is an inert, immobile mass of material waiting and ripening for exploitation, which is taxed year after year. The principal problems in taxing minerals and mining property under the uniformity rule arise from the difficulty of securing an accurate valuation. Unlike growing assets, wasting assets, once removed are irreplaceable. They are limited, although the limits are not always known, but the most significant characteristic is the uncertainty connected with both the quantity and the quality as well as the value of the deposits.

A. VALUATION FACTORS AND ASSESSMENT PROBLEMS

The valuation of ore reserves depends upon several factors, most of which are unknown to the local assessor, and which, at best, can be known to the expert only within rough approximations. First, is the extent of the deposits, which the local assessor who inspects the surface or the excavations of a mine cannot discover. Second, the value of the annual output depends upon the grade of the deposit, the accessibility to market, and other factors not accurately known. In the

third place, there is the rate at which the particular mine to be valued can be exploited. That question is not confined to the physical or engineering aspect of actually removing the deposits; market factors must also be reckoned. A fourth factor of uncertainty is the prospective lowering of the margin of "exploitability." In the fifth place, in order to obtain the present value, there is to be considered the rate of interest at which the value of the reserves shall be discounted. Finally, there is the tax to be paid annually so long as the mine continues in operation and the reserves are not fully exploited.

The tendency of exploitable deposits to occur in great concentration makes the property tax on minerals ill-adapted to supply the regular needs of local treasuries. At certain times, especially while the reserves are large and valuable, the local treasuries may be too abundantly supplied. At other times, especially when the reserves are vanishing or nearly exhausted, and the value, therefore, low, the tax revenue will be low, even though the public functions have not measurably decreased. It does not follow, moreover, because extensive mining activities are carried on, that the deposits are valuable. In many cases the deposits may be of such low grade that their exploitation yields little more than the necessary operating costs; in such a case a property tax on the deposits can yield little revenue no matter how extensive the deposits may be.

Mining property has probably, on the whole, been valued too low and has paid too little in taxes relative to other property. Various methods have been used in taxing such property. The states have abandoned the principles of the general property tax rather more frequently for mining property than for other kinds of property; to such taxes, other than on property, only passing attention can be given.[1]

B. EXPERT ASSESSMENTS

Where the general property tax applies to mineral property, the assessment is of pivotal importance. For reasons already shown, the local assessor has done this work even worse than with property in general. The assessments have been largely guesswork. However, in Minnesota, Wisconsin, Michigan, and certain other states, so-called

[1] Cf. L. E. Young, *Mine Taxation in the United States*, although this work is already obsolete in part. Also, last section of this chapter.

"scientific" assessments have been made by some central authority, usually the tax commission. It consists in obtaining, through tests and measurements, the most accurate data as to the quantity, quality, and value of deposits, the expected rate of exhaustion, and the proper return on investments in particular enterprises. The assessed value is the capitalized value of the anticipated returns thus determined.

In Minnesota the tax commission was early assigned the work of supervising the assessment of mineral property. In 1911 the commission was authorized to utilize the staff of the State School of Mines for the purpose of valuing mineral deposits. The effect of expert knowledge on assessments was remarkable, as is indicated by the fact that the assessed value of mineral property rose from $64,486,409 in 1906 to $259,418,277 in 1912, while the assessed value of all real property, including mineral, rose during this period from $751,887,611 to $1,150,-393,544. In 1906 the assessed value of mineral property amounted to 8.57 per cent of all real property, while in 1912 the corresponding percentage was 22.55.[1] To some extent this has probably meant relative overassessment of mining property, since the commission did not have equally effective control of the assessment in general.

Iron mines in Minnesota are especially adapted to the analytic method of valuation. Deposits occur in fairly regular and continuous bodies, and the ore is throughout of fairly uniform character. In mines, in which these conditions do not obtain, the analytic method may be technically impossible, or inordinately expensive.

Under somewhat similar conditions a like system in Michigan yielded equally satisfactory results. Thus "the assessed valuation of the iron ore properties was increased pursuant to the appraisal of J. R. Finlay in 1911 from $27,000,000 to $85,000,000; and the 1921 assessment, in spite of the ten years' depletion, reached the goodly total of $117,000,000."[2] The reports indicate that the results of centralized assessment have been similarly successful in Arizona and Utah.[3]

[1] *Report of Tax Commission, 1912*, p. 100. For a detailed description of this method of assessment, cf. the annual reports.

[2] George Vaughan, "Taxation of Natural Resources," *Proceedings*, XV (1922), 432.

[3] Peterson, "Appraisement and Assessment of Coal Land," *Proceedings*, XIII (1920), 399–405.

The improvement in assessment methods employed for valuing mining properties benefits the local treasuries through the augmented revenue derived from an enlarged tax base. While the mining companies pay more in taxes, they too benefit from the fact that tax obligations are more definite and uniform among the various companies. They are relieved from the necessity of going into politics to protect their interests and are precluded from employing this course to secure unwarranted favors. The results in Michigan are indicated by the fact that the mine owners did not appear often at the hearings on the valuations "because they felt that their interests were safe with the tax commission, on a system with which they were familiar. The general property owner felt the same way, and as a result there was political peace throughout the iron mining districts of Michigan."[1]

It appears that greater progress has been made in appraising metalliferous mines than coal and oil properties. Oil wells are particularly difficult to appraise because both the rate and duration of the flow are uncertain. Little progress appears to have been made in the scientific assessment of oil properties. Some crude device of assigning to a well a valuation in terms of a fixed sum, say $500 per barrel of daily production has been in use.[2] The Kansas Tax Code Commission, in commenting upon this method and upon its failure to conform to the requirements of the tax law, states that:

> We find no warrant of authority in the law as it now stands for the application of any such arbitrary method of arriving at the valuation of oil and gas properties. The mere fact that the assessing officers of the state have resorted to this extra-legal method of determining the assessable value of these kinds of properties argues well the proposition that the local assessors, due to lack of technical training, are wholly incapable of fairly valuing the properties in accordance with the method prescribed by the statute.[3]

The commission then recommended a severance tax of 2 per cent of the gross value of gas and oil produced, in lieu of the existing property tax, and the allocation of a part of the proceeds to the local districts by way of reimbursement for loss in revenue due to the abandonment of

[1] Orlando F. Barnes, *Proceedings*, XIII (1920), 424, 425.

[2] Such is the method in use at present in Kansas. Cf. *Report of Tax Code Commission, 1929*, p. 40.

[3] *Ibid.*, p. 40.

the property tax. The constitutional amendment of 1924 had authorized the classification of "mineral property" as well as intangibles. Otherwise such a severance tax would probably not have been constitutional.

R. G. Blakey, after an extensive investigation of the assessment of coal properties in West Virginia, found considerable inequality.[1] Thus, in nine counties studied, the real estate assessments varied from 50.3 per cent to 130 per cent of the appraiser's figures, and the improvements and personal property from 26.4 per cent to 64.9 per cent. The reason was the absence of a sufficiently "clear-cut policy."

If tangible property were required to be listed carefully and if in addition the State Tax Commissioner had inspections of properties made, from time to time, and independent physical appraisals made by mining engineers working from his office to compare such appraisals with the returns made to him by the companies, the task of assessing coal mining properties would be simplified, and put on an equitable basis in the various counties, provided that the county assessors and boards of equalization followed the instruction of the State Tax Commission. . . . . It is believed that if a series of conferences were held throughout the state between representatives of the coal operators, assessors and State Tax Commission, a policy in assessment methods might be established that would be reasonably satisfactory and equitable to every one.[2]

C. SEVERANCE AND OTHER SPECIAL TAXES

Certain taxes, while maintaining the principle of property taxation, have assumed a different form. One type is based upon the output of the mine; this may be called a tonnage tax. Another resembling the gross receipts tax on the railroads in Minnesota and California is based upon gross earnings. Still another, now less frequently used, is based upon the net receipts of the mining enterprise. The distinguishing feature which entitles them to consideration here is that they take the place of property taxes upon mineral property.

Tonnage taxes, in lieu of all other property taxes, are not common. From 1878 to 1897 it was optional with mining companies in Minnesota to commute the property taxes on their mineral property into a tonnage tax of one cent per ton of ore mined. That law was repealed, as it was

[1] Blakey, *op. cit.*, pp. 58–106.

[2] *Ibid.*, pp. 100, 101.

believed to be unconstitutional under the uniformity rule then effective. Since its repeal, repeated but unsuccessful attempts have been made to introduce it either in lieu of or in addition to the property tax. Each time the bill was either defeated in the legislature or vetoed by the governor. It was probably favored by the majority of the people as a device for appropriating a larger share of the "heritage" element in the mineral deposits for the state. The goal thus sought appears now to have been better achieved through the so-called occupation and royalties taxes, which are imposed in addition to property taxes.

Administratively, the tonnage tax would be simple, but it would have no relation to the value of the ore, which varies greatly from one mine to another. If the ore were classified and different rates imposed on each class, the simplicity of the tax would disappear. If it were imposed in lieu of all other property taxes, it would be necessary to apportion the revenue or a part of it to the local treasuries, which in many cases depend upon the property tax on mineral property for most of their revenue.

In some states, particularly those of the Rocky Mountain region, there are taxes on the value of the output in lieu of other ad valorem taxes on the deposits. It is usually required that the mining companies pay a property tax on their real estate improvements, such as is paid upon other property. In Oklahoma, all mining and oil companies, except coal companies, which are otherwise taxed, pay a fixed rate of 3 per cent of the actual cash value of their output. This has been held to be a property tax, measured by the value of the output.[1] The courts here follow the same line of reasoning as that used to justify the gross earnings tax on railroads in Minnesota and California. The tax must be in lieu of all other property taxes. In South Carolina the rate varies with the rate on other property . Wisconsin and Wyoming also make use of such a tax.

In 1929 Michigan adopted a specific tax, to be known as the severance tax, upon corporations producing oil and gas. The rate is 2 per cent of the gross cash market value of the total production, as computed directly after severance. The tax is in lieu of all other taxes state and local, on oil or gas as property.

In favor of the gross earnings tax, it is argued that it is easy to ad-

[1] *In re Skelton Lead and Zinc Co.*, 197 Pac. 495.

minister; that it is economical, since no appraisal is necessary—a weighty argument in some types of mining; that tax-dodging is difficult since the value of the output is readily obtainable; that mines are taxed when they are producing—a matter of convenience to the taxpayer; that it can be graduated according to the quality of the mines and the burden adjusted to the capacity to pay, which varies widely between the good and the poor mines; and that taxes are collected during the entire period of production, and do not dwindle down on the approach of the exhaustion of the deposits—as would be true in case of an expectation-value tax. On the other hand, it is objected that the revenue from the gross earnings tax is uncertain, and may vary widely from year to year; that there is generally no discrimination among mines as to their ability to pay; that gross value of output is not ordinarily a satisfactory measure of the value of property; that the present value of future earnings is not taxed; that unproductive lands or mines are not taxed, and thereby delay and speculation are encouraged; and that unprofitable mines that are productive, as well as those that are being developed, are taxed unfairly.

In certain states, chiefly of the Rocky Mountain region, net earnings instead of gross earnings, have been taxed. In these cases there is also a tax on improvements. The net earnings tax is a property tax, for the annual net earnings are arbitrarily taken as the capital value of the property to which the local property tax rates are applied. Idaho, Montana,[1] Nevada, and New Mexico, with minor differences, use or have used this tax.

The net earnings tax is simple to administer, since no appraisal is required; and it is more convenient for the operator to pay than the gross receipts tax, as no tax is due unless actual net earnings are realized. On the other hand, it is difficult to determine net earnings. Depletion and depreciation are difficult to measure. Equally difficult to deal with is the appreciation that results from higher prices for minerals, new discoveries, and improvements in the mining process. Probably worst of all is the problem of distributing the revenue from the tax. Such a tax must be centrally administered if it is to be at all effective;

[1] See Louis Levine, *Taxation of Mines in Montana*, for a demonstration of the inequalities of this tax, and the movement for reform. Though the treatise is nearly ten years old, no great improvement has been made.

local treasuries must not be deprived of the right to tax this property; or, if the state takes the proceeds from the tax, the localities must in some way be compensated. Moreover, as there are violent fluctuations in the net earnings, there would be years in which the net earnings tax would be productive of almost no revenue.

Among the taxes imposed in addition to the property tax are the so-called occupation and royalties taxes in Minnesota. The occupation tax was adopted in 1921, and was ratified under an amendment to the constitution in 1922. The rate is 6 per cent of the net value of all ores mined. Since royalties to mine owners were deductible items, a similar tax on royalties was enacted in 1923.[1] One significant fact about these laws is that they exemplify the power of the state to levy such taxes on the net value of the entire output, not that part only which is destined for intrastate use. The mining of iron ore is a business separate and distinct from the shipment and sale of such ore, and under the federal Constitution it may be separately taxed. The courts held[2] that it is the privilege of mining the ore that is taxed, not the interstate sale and shipment.

In Pennsylvania there was[3] a similar tax on the mining of anthracite coal. Like the Minnesota occupation tax, it was a successful attempt to appropriate for the public treasury a part of the natural resources of the state. In both cases the tax will be borne partly by consumers outside of the state imposing the tax, owing to the relatively effective monopoly of the taxed commodity in the taxing state. The Pennsylvania tax, too, is an excise tax upon the privilege of severing natural resources.[4] This tax is also significant because of the extent to which the principle of classification is carried, anthracite coal only, and not bituminous coal, being subject to the tax. It would seem that, since the tax is an excise tax, it would be legally valid in any state, even in the presence of the uniformity clause, provided the power to levy excise taxes is not withheld in the fundamental law of the state. The

[1] *Report of the Tax Commission, 1928,* chaps. ix and x. Since 1923 the occupation tax has yielded less than $3,000,000, and the royalty tax less than $1,000,000, annually.

[2] *Oliver Iron Mining Company* v. *Lord,* 262, U.S. 172.

[3] By law of 1929 this tax is abandoned, May 31, 1931.

[4] *Heisler* v. *Thomas Colliery Co.,* 260 U.S. 245.

anthracite tax was for state use, but was not in lieu of local property taxes.

In Louisiana a severance tax is specifically required by the state constitution.[1] The several kinds of natural resources may be classified; and the rate of the tax may vary for different classes, and may be "predicated" either upon the quantity or the value of the product at the time and place of severance. On gas and oil products the tax is 3 per cent of the gross value; on all other resources, 2 per cent. This tax also was held to be an excise tax.[2] It may be levied on all natural resources severed in the state, but not upon any competing products imported. This is in lieu of property taxes on leases or rights and on the mineral deposits.

The modifications that have been made in the general property tax as applied to appreciating and depreciating properties have not been numerous or extensive. Only a few states adapt their property tax to forest property. There have been more adaptations, in form and principle, in the taxation of mineral property. But the general property tax is being attacked in its strongest part, namely, real property. Perhaps it will be a long time before the property tax on land becomes differentiated to the same extent as European land taxes; but the same influence, that broke up the general property tax into its constituent parts there, is at work here.

[1] Art. x, sec. 21.

[2] *Gulf Refining Company* v. *McFarland*, 97 So. 433.

CHAPTER X

SEGREGATION AND SEPARATION OF REVENUE SOURCES

Segregation and separation have in some quarters been hailed as a major remedy for the ills of the general property tax. The modifications of principle of the general property tax, involved in the practice of segregation, are relatively slight. However, the experience with segregation offers some instructive lessons in property taxation. Segregation is, moreover, used in connection with classification of property, or is perhaps itself a species of classification, and may, therefore, fittingly be used to complete the picture of the theory and practices of property taxation.

The so-called segregation of sources consists in withdrawing certain property, not necessarily merely from local assessment, but also from local taxation. As a compensation for revenue thus lost to the local units, the state refrains from taxing general property, or reduces the rate thereon, making possible, without extra burden on the property, a higher local rate upon the reduced local base.

Two terms, "separation" and "segregation" of sources, are often used interchangeably.

Pure separation occurs where different taxes are used by the state and the localities, although these taxes may be derived from the same source. The California method of reserving corporate property for the state and assigning the property of natural persons to the local divisions is segregation; whereas a system employing the general property tax for local purposes and an income tax for state purposes would be pure separation.[1]

I. EXTENT OF SEGREGATION AND SEPARATION

To some extent, there has always been separation of revenue sources, for no state was ever entirely dependent upon property taxes.

[1] Mabel Newcomer, *Separation of State and Local Revenues*, p. 12. This distinction appears to have been originated by Professor Plehn. Cf. *Proceedings*, 1915, pp. 58 ff. Dr. Newcomer's treatise has been heavily relied upon in this chapter. Cf. also R. T. Ely, *Taxation in American States and Cities*.

> During the colonial period and in the early history of the states the general property tax was, outside of New England, chiefly a local tax. . . . .Before the Revolution, the import duties formed an important source of revenue, and later, when these were taken from the states, large revenues were obtained from licenses, lotteries, state investments, and the sale of public lands. Separation, partial or complete, existed in most of the states until nearly 1850.[1]

The system existing in early Illinois[2] is probably a fair example.

> The separation thus existing was not, however, adopted consciously as a desirable fiscal principle. The property tax . . . . was unpopular in many of the states, and for the most part there was no difficulty in obtaining sufficient revenues without it. . . . . Separation was abandoned unconsciously, as it had been employed unconsciously. It was not even thought of, apparently, as a definite fiscal principle. In the attempt to meet growing expenditures the state tax on property was rapidly developed, and during the third quarter of the nineteenth century it became practically universal.[3]

Such revival of separation as has developed since about 1875 has usually been without conscious purpose. Corporations became numerous, and the corporate excess, franchise value, and other credits escaped property taxation as originally administered. Certain taxes could be administered best, or only, under central control; the state appropriated such taxes for its own use. Separation thus developed as a continuous process of adjustment of the tax system to changing conditions. Table 54 shows the taxes of all kinds levied in New York state during the fiscal year ended June 30, 1928. As will be seen, the state made relatively little use of property taxes. During the following year the state revenue from that source was, in fact, reduced to $13,500,000, and for 1930 and thereafter it is expected that the general property tax will be left for the exclusive use of the local divisions. Evidently segregation is not a principal aim in New York. For a sum much greater than the $20,911,455 collected for state purposes in 1928 was shared by the state with the localities.[4]

[1] Newcomer, *op. cit.*, pp. 26–28.

[2] Cf. Chap. II, *supra*, and Haig, *History of the General Property Tax in Illinois*, especially pp. 1–92.

[3] Newcomer, *op. cit.*, pp. 26–28.

[4] Thus the revenue from the personal income tax was divided equally between state and localities. A part of the corporate income tax, the franchise on business

California is the only state in which segregation has been effectively pursued as a conscious policy. Table 55 shows many interesting facts in connection with this policy; the most significant fact is the abandon-

TABLE 54

TAX SYSTEM OF NEW YORK, AS OF SEPTEMBER 1, 1929, SHOWING COLLECTIONS FOR FISCAL YEAR ENDED JUNE 30, 1928*

NAME OF TAX	COLLECTIONS	
	For the State	For the Localities
General property	$ 20,911,455	$696,044,887
Corporation organization	3,156,230	....
License, foreign corporations	438,258	....
Franchise, domestic and foreign corporations	6,564,720	....
Franchise, insurance corporations	7,093,867	....
Franchise, savings banks	4,558,634	....
Franchise, business corporations	29,770,719	14,885,360
Franchise, banks and financial corporations	....	4,108,798
Franchises, additional and miscellaneous	7,188,540	....
Income, national banks	....	2,694,318
Personal income	31,802,807	31,802,807
Estate and transfers	35,566,274	....
Mortgage recording	6,093,214	6,093,214
Stock transfers	22,245,125	....
License, real estate brokers and salesmen	288,567	288,567
Motor vehicle registration and licenses	24,935,530	9,529,969
Motor fuel (2 cents per gallon)†	....	....
Foreign insurance corporations	1,512,468	....
Shellfish grounds	11,185	....
License, billiard and pocket billiard rooms	16,542	16,543
Total	$202,154,135	$765,463,463

* Based upon table in paper presented at the Twenty-second National Tax Conference (1929) by Mr. Luther Gulick, "The Tax System of New York as Viewed by the Student and Research Investigator," *Proceedings*, pp. 68–81. Cf. also, C. J. Tobin, "The New York Tax System as Viewed by the Taxpayer," *ibid.*, pp. 82–115; and J. J. Merrill, "The Tax System of New York State as Viewed by the Administrator," *ibid.*, pp. 116–24. The excellent *Annual Reports* of the New York State Tax Commission contain an enormous amount of information.

† This tax was new. There were no collections under it during the fiscal year covered in the table.

corporations, is also thus allocated. There are other taxes which the state has shared with the localities which it could have retained had segregation been a matter of compelling force. The state levy on property, however, was abandoned in 1930.

ment after 1911 of the use of the general property tax for state purposes. For the year 1910–11, of the total state revenue of $11,977,000, the sum of $8,379,000, or nearly 70 per cent was derived from the gen-

TABLE 55

AMOUNTS AND SOURCES OF TAX REVENUE COLLECTED IN CALIFORNIA BY THE STATE FOR STATE AND LOCAL PURPOSES, AND LOCAL TAXES LOCALLY COLLECTED, SPECIFIED YEARS*
(In Thousands of Dollars)

Taxes	1910–11	1920–21	1927–28
Collected by the state:			
For state purposes:			
Corporation taxes	....	$ 22,269	$ 45,334
Automobile taxes (state's share)	$ 41	4,355	22,245
General property tax	8,379	8	....
Poll tax	739	1	....
Inheritance tax	1,057	6,805	10,968
Corporation license tax	872	937	24
Corporation organization tax	280	273	432
Revenue from self-supporting agencies	159	563	1,110
Total state purposes	11,977	35,211	80,113
For local purposes:			
Automobile taxes (local share)	....	2,426	13,867
Railroad property (local share)	1,786	....	....
Total local purposes	1,786	2,426	13,867
Total collected by state	13,763	37,637	93,980
Locally collected local taxes†	53,500	154,400	276,500
Total all taxes	67,263	192,037	370,480

* From *Final Report of the California Tax Commission, 1929*, pp. 22–31. For details, which are interesting and numerous, the report itself should be consulted.

† Collections, except for 1927–28, which are levies and, therefore, excessive to the extent of taxes levied but not collected.

eral property tax. Since then, other taxes, notably the inheritance tax and taxes on automobiles, have increased in productiveness; but the gross receipts and franchise taxes on corporations have yielded the bulk of the revenue that would otherwise have had to be raised from taxes on general property. The nature of these taxes will be described more fully in the following section.

Tables 54 and 55, showing the various sources of state revenue in New York and California which have made segregation of revenue sources possible in these two states, do not, of course, reflect the status of segregation in the remaining forty-six states. California is the only state in which segregation was attained purposely, by means of a major shift in the form of taxation. Elsewhere, the states have become increasingly independent of the general property tax,[1] through the development of new sources of revenue. These sources of revenue are indicated in Tables 54 and 55, except that in West Virginia a general sales tax has been used to yield appreciable revenue; specific sales taxes have contributed some revenue in a few states; the revenue from low-rate taxes on intangibles has also been assigned to state use, notably in Virginia, Pennsylvania, and Kentucky; and finally, severance taxes have been assigned to the state treasury in a few states, notably Oklahoma. But at the present time only California, North Carolina, New York, Pennsylvania, and Virginia are doing without levies on general property for state purposes. Others, among them New Jersey and Delaware, have been, but are not now, independent of state property taxes.

II. EFFECTS OF SEGREGATION

Whether segregation of sources is desirable depends upon the relative importance of objects sought, and upon the alternative methods available for gaining these objects. The local tax base shrinks as property is withdrawn. If the result is to deprive the local district of needed revenue, segregation is to that extent undesirable.[2] On the other hand, in some districts an enormous concentration of property has resulted largely from accidental circumstances. It is not difficult to establish the claim of the state as a whole to a larger share of the tax from such property than it will derive under the general property tax; and if segregation achieves a better distribution of the tax base, this is desirable.

A. READJUSTMENT OF THE TAX BASE

The redistribution of the tax base resulting from segregation involves a modification of the general property tax. Acceptance of that

[1] Cf. chap. i, *supra*.

[2] Such appears to have been the result in Kentucky, where intangibles were segregated. Cf. *Report of Efficiency Commission, 1924*, pp. 21 ff. Cf. also in California, *Final Report of 1928 Tax Commission*, pp. 42–72.

tax as the sole or principal local source of revenue involves the unwarranted assumption that the property in each local division provides an adequate tax base. The quantity and quality of schools, roads, and the like, are largely standardized by independent factors, such as custom, general level of wealth, and legislation. In so far as the expenditure required is thus fixed, the tax rate is the elastic element, as is seen from the great variety of tax rates for, say, school purposes, in tax districts that are, in general, similar. Thus, in 1922, for 421 Kansas cities of the third class the lowest school tax rate was 1.6 mills, the

TABLE 56

TAX RATES FOR SCHOOL AND CITY PURPOSES OF THIRD-CLASS CITIES IN KANSAS, 1922*

Tax Rates	Number of Cities	
	Having Specified School Tax Rate	Having Specified City Tax Rate
5 mills or less	19	104
5.1–10 mills	125	175
10.1–15 mills	182	86
15.1–20 mills	79	44
20.1–24 mills	12	7
25 mills and over	4	8

* *Kansas Municipalities, Tax Rate Number*, April, 1923, pp. 23–29. Some cities failed to report fully, hence the discrepancy in the number of reports.

highest 44.5 mills. The actual distribution is shown in Table 56. Similarly, the lowest rate for city purposes was 1.0 mill, the highest 39.5 mills. A part of the variation in rates is due to special projects, emergencies, and varying degrees of undervaluation. But a large part is due to variations in the actual value of the taxable property in each district. The revenue needed, and consequently the tax rate, cannot be so adjusted as to be proportional to the valuation, as between taxing districts.

To a large extent the tax rate must be reflected in the valuation. Property is exchanged subject to all known and anticipated charges against it; taxes, though they cannot be forecast accurately, influence the price of property. Property in a district with high tax rates, particularly if the tax valuation be also at a high percentage of the true

value, will exchange at a lower price than if the rate and the value ratio are both low. If any circumstance reduces the tax base, the amount of revenue being largely determined independently, the tax rate must be high. The high tax in turn is largely capitalized, causing the tax base to shrink, thus necessitating further increase in the tax rate. Conversely, whatever circumstance increases the ratio of the tax base to the population tends toward a progressively diminishing tax rate. The spiral of causation operates, of course, with diminishing force, being subject to various checks.

If in any tax district property values are concentrated, the undesirable effects can be cured by withdrawing the locally concentrated property from local taxation. This was evidently in the minds of the advocates of the California scheme of segregation.

> One county, San Bernardino, sitting at the southeast gateway, itself a vast domain some two hundred miles long and one hundred and twenty miles wide, gathered the taxes on seven hundred miles of railways, while San Francisco county had but twelve miles to tax. The former county, sparsely populated, furnished little traffic, but gathered revenues enough from the taxation of the railroads to nearly support its local government without other taxes. It seemed more equitable that the taxes on the railroads should go to the state at large. Again, the mountains—the high Sierras—afford many great sources of water power, and enormous power plants have been built there from which the power is distributed over hundreds of miles of wire and sold far away from the spot of its creation. It seemed inequitable that the sparsely populated mountain counties, where alone there was any considerable amount of property to tax, should have the cream of the revenues to be derived from this source. These are but a few examples from among the many that might be cited to show why separation was necessary in California.[1]

The same argument might be used with respect to other states where great local concentration of property obtains. One theory on which the state claims the tax revenue is that this revenue should go to those who create the value. Thinly populated counties furnish little traffic and create but little value. Densely populated regions furnish much traffic and contribute largely to the creation of the value of railroad property. This theory applies also to such railroad property as tracks, right-of-

[1] C. C. Plehn, "Tax Reform in California," *Proceedings*, 1911, pp. 116, 117.

way, and rolling stock. It is less applicable to certain other kinds, such as shops and freight houses.

If segregation can thus be made to cure defects in the general property used as a tax base, it may, on occasion, create defects of the same kind, especially with property that involves the employment locally of much labor, such as in terminals, shops, and round-houses. Such property brings increased population and *pro tanto*, increased public functions and growing public expenditures. In such circumstances, the traffic arising in the local area does not to any appreciable extent give value to the property; but the local area incurs increased public expenditures, although it cannot tax the property whose presence gives rise to them. Hence, it has been sought to have the tax revenue of such property assigned for local use.

This is all the more necessary in Minnesota and California, where the gross earnings tax is regarded as a property tax measured by gross earnings. The courts have held that only on this theory can the tax be based upon the entire gross earnings. For, if the tax be regarded as an excise tax based upon gross receipts, then, if the amount raised is substantial, it becomes an unconstitutional restriction upon interstate commerce. The gross earnings tax is a property tax only when there is no other tax on the property. Hence no local property tax could be tolerated.

The California constitution[1] states that such taxes shall be in lieu of all other taxes and licenses, state, county, and municipal, upon the property listed above. This has been held to mean that, for example, gas and electric companies cannot be required to pay either personal property taxes or license registration taxes upon a fleet of motor vehicles used exclusively in the business of the companies.[2] Likewise, the insurance companies paying the 2.6 per cent gross premiums tax are relieved from any license or occupation tax upon their agents for doing business as such in any local division.[3] While the miscellaneous taxes from which enterprises paying gross earnings taxes are exempt are seldom of first magnitude as revenue producers, their loss may be important.

[1] Art. xiii, sec. 14.

[2] *Pacific Gas and Electric Company* v. *Roberts*, 168 Cal. 420.

[3] *Hughes* v. *City of Los Angeles*, 168 Cal. 764.

These sweeping exemptions in California can be tempered only by constitutional amendment. Probably they are not all necessary under the federal Constitution. In Minnesota, railroad companies were required to pay special assessments upon property benefited from such improvements as may be financed in this manner.[1] If the centrally taxed corporations must pay special assessments, it is reasonable to believe that they might also, as far as the federal Constitution goes, be required to pay to the local divisions license and other taxes, except property taxes, as do other corporations and individuals.

TABLE 57

PER CAPITA VALUATION, TAX RATES, AND PER CAPITA LEVIES IN FOUR SELECTED CITIES IN MINNESOTA, 1922*

City	Per Capita Taxable Value	City or Village		School District		City, Village, and School Districts	
		Tax Rate (Mills)	Levy per Capita	Tax Rate (Mills)	Levy per Capita	Tax Rate (Mills)	Levy per Capita
Average for state	$750	29.64	$22.23	24.57	$18.40	54.21	$40.65
Two Harbors	199	36.00	7.18	47.19	9.41	83.19	16.59
Proctor	201	19.30	3.89	53.70	10.82	73.00	14.71
Staples	215	45.90	9.89	62.60	13.49	108.50	23.38
Brainerd	311	25.30	7.86	48.20	14.97	73.50	22.83

* *Minnesota Municipalities, August, 1924*, IV (November 4), 132. Based upon data compiled by the state tax commission. The per capita taxable value seems unreasonably low, and the tax rates exorbitantly high. The explanation is found largely in the low fractional assessment ratios required for the different classes of property, for the details of which see chap. xvii, *infra*.

Even if the gross earnings tax were to be in lieu of local property taxes only, there would still be need for adjustments of revenue to local needs. This is shown by Table 57, indicating the per capita taxable valuations, the tax rate in mills, and the revenue per capita, in four selected cities of Minnesota. In these cities large valuations of terminal and divisional railroad property have been withdrawn from local taxation; to this fact their unfortunate situation is ascribed. The average per capita taxable value for the state is $750, while in each of these cities the amount is much less, in no case being as much as one-half the average. Consequently either the rates are exorbitantly high or the revenue per capita unusually low or both. A way out is sug-

[1] *General Statutes, 1913*, sec. 2092.

gested, which reconciles the two theories of (1) the distribution of revenue according to creation of the values and (2) the distribution according to the needs of the public service:

> We had in Minnesota, December 31, 1922, railroad property valued at \$530,343,716.28. The value of all railroad property in Minnesota exclusive of rolling stock, main tracks, bridges, and trestles supporting same, is \$182,-896,005.91 (34.5 per cent), which represents the property that brings the people into a community. This is the property that puts the added financial burden on the community in the way of schools and city or village government, that should be returning something to the support of schools and city or village government. The railroads paid to the state \$7,681,809.33 in taxes. Why should not 34.5 per cent of that \$7,681,809.33 which is \$2,650,-224.22, be returned to the communities in which the property is located and upon whom this added financial burden falls because of this railroad property?[1]

The remaining revenue representing that drawn from the value whose creation must be sought on a wider basis would go to the state. The solution is at least plausible. It corresponds to the New England practice of returning to the towns, on various bases, a part of the state revenue to compensate for local losses of the tax base.

B. SEGREGATION AS A REMEDY FOR COMPETITIVE UNDERVALUATION

It was hoped, in California particularly, that the lowering or abandonment of the state property tax would result in reducing or removing the motive for competitive undervaluation in order to escape the local share of the state tax. The evils of the general property tax

> were just as bad in California as elsewhere, possibly worse. Inequalities in the assessment of property between different localities were gross; and, since the state performed many functions, its tax was heavy. When apportioned unequally, this heavy tax was a serious menace. "Equalization" failed to equalize, and when attempted, led to intense bitterness and inter-county strife, threatening, only a short time ago, to lead to state division.[2]

Yet in California undervaluation continues. In the "first year the expected increase in the valuations has not been generally made. Most of the assessors held back, fearing that there might be a state tax on property generally. . . . The situation is, moreover, somewhat com-

[1] *Minnesota Municipalities*, IV, 132.

[2] Plehn, *op. cit.*, pp. 115, 116.

plicated by the fact that at the same election the people voted a light tax for four years on the old principle."[1] But this tax was so light as to be not regarded as a good reason for undervaluation, and it was expected that a movement toward a higher and more uniform assessment ratio would set in when the fear of a state property tax should have subsided. The California Tax Commission of 1906 said: "It is indisputable that separation would abolish the chief incentive to and cause for undervaluations and remove the chief source of discriminations."[2] In another place the same commission said: "The probability is, that in order to enjoy the advertising effect of a low tax rate the general inclination would be for the assessor to raise the valuation rather than to reduce it."[3] In commenting upon these motives and the unfulfilled predictions based thereon, the 1928 Commission said:

> As will be shown in a later section of this report, eighteen years' experience under the system of separation shows that the withdrawal of the state direct levy has not brought about an improvement in the assessment of property. In fact, an examination of the situation indicates that conditions are worse than they were when the 1906 Commission drew its indictment. No appraisals comparable to those now made by the State Board of Equalization were available in 1906, but the Commission estimated the ratio at that time at 60 per cent. The 1928 ratio for real estate is 41.63 per cent. Moreover, in 1928 the average county assessment rates varied from 25.75 per cent to 53.79 per cent. The ever present possibility of a state direct tax appears to have been a factor in holding county assessments down; for a sudden reduction in assessed values following a state levy would be difficult to explain. Differences among the counties are of no importance in themselves, but low assessments encourage inequalities within the counties, and these remain a serious problem.[4]

Forces other than separation of sources are operating much more strongly toward a more adequate assessment:

> To some extent in California and New York, particularly in the latter state, ratios of assessed to real value have been raised in the larger cities—notably New York City where the ratio is approximately one hundred per cent. Separation has encouraged this in a negative way by removing the state tax. In New York City at least, such an increase would not have been permitted had it not been confidently expected that the state tax would not

[1] *Ibid.*, p. 136.

[2] *Report*, p. 79.

[3] *Ibid.*

[4] *Final Report, 1929*, p. 45.

again be imposed. But the real reason for the high ratios is that they have been necessitated by the tax and debt limits of these states. The cities have been forced to raise their assessments to this extent in order to obtain the necessary money to carry on their activities. In rural districts where expenditures are small there has been no indication of an effort to increase the assessment ratio. In California the latest estimate (1916) gives the average assessment ratio as 43 per cent. As earlier estimates were at 45 per cent there has apparently been no gain here. In New York, outside of a few large cities, the average ratio is about 70 per cent, as it was before separation. In Connecticut ratios of assessments were first increased when the state direct tax was reimposed in 1910. In New Jersey where an actual increase has been realized it can be accounted for by better methods of administration. Separation cannot be credited with any important gains in this respect.[1]

The state owes to the counties and other local units the duty not only of equalization among the counties—which, after all, in view of the small amount taken by the state direct tax, is relatively unimportant—but also among the units within each county, and among individual taxpayers. Removal of the state direct tax weakens the incentive of the state in the local equalization. It has been argued that "complete separation will abolish at once the expense, friction, and annoyance of the vain attempt to equalize between the different counties."[2] But, though not completely successful, the equalization is not "vain," and to perform the duty of local equalization is well worth the expense. In the words of the California 1928 Commission: "Improvement in local assessments seems to come with increasing state supervision, and not with separation. Wisconsin, with nearly half of the state revenues coming from the general property tax, probably has the best assessments of any state."[3]

Furthermore, segregation is not the only available method for removing the motive for undervaluation due to the apportionment of the state tax. The simple device of apportioning the state tax on the state valuation, leaving the local divisions free to use their own valuation for their own tax, as in Wisconsin and a few other states, achieves the same result. It can be attained without state equalization by the adoption of the Connecticut practice of apportioning the direct state tax

[1] Newcomer, *op. cit.*, pp. 184–85.

[2] *Report of 1906*, p. 81.

[3] *Final Report*, p. 45.

among the towns in proportion to the direct-tax revenue obtained by them, as averaged for three fiscal years.[1] This method of apportionment gives rise, however, to a form of territorial inequality. The progressive district which spends freely or the one subject to emergency expenditures would be required to contribute disproportionately to the state treasury. The best method, however, seems to be to use the same valuation ratio for both state and local levies, and to provide through effective administration for as nearly full and uniform assessment as possible.

C. SEGREGATION AND THE TAXATION OF CORPORATIONS

If segregation does not produce more uniform assessment ratios, does it have something to its credit in the more complete and fairer taxation of certain kinds of property, such as the corporate excess, good will, and rolling stock? The right of a corporation "to be," its right to do business, and any good will created, are valuable property, when considered in the light of its earning capacity. The local assessor can rarely find these qualities; if he does find them, he cannot fairly value them.

The California segregation law was very thorough. In addition to the gross earnings taxes on public service corporations, the gross premiums tax on insurance companies, and the franchise tax on bank stock, it assigned to the state the tax on the franchises of all other corporations. The franchise is the value of the bonds and stocks less the assessed value of any visible or tangible property, of which difference the assessing authority was to take such proportion as seemed reasonable. The last part of this description involves the exercise of discretion on the part of the assessing state board. The tax was successful, even though protests were numerous. The first year (1911–12) the tax of 1 per cent of the value of the franchise amounted to $1,675,000;[2] this amount steadily grew to $3,118,000 in 1921–22, and in 1927–28 it had risen to $4,648,000.[3] The extent to which intangibles of this class

[1] On this method, cf. A. R. Foote, "State Tax on Local Government Incomes: A Substitute for State General Property Tax," *Proceedings*, 1911, pp. 253–62; and W. H. Corbin, "Apportionment of State Taxes on Basis of Local Revenue," *Proceedings*, 1911, pp. 262–69.

[2] Plehn, *op. cit.*, p. 134. The 1928 Commission reported $1,620,000, p. 24.

[3] *Final Report, 1929*, pp. 22–24.

escaped may be seen from the fact that the taxes paid by these corporations on franchises amounted to $700,600 in 1910–11 and $366,600 in 1906–7.[1]

In fixing the rate of the state tax on segregated property two questions present themselves. First, shall the rate be fixed so as to impose on segregated property a tax equivalent to the property tax on general property; or shall a lighter or a heavier burden be imposed? Second, how shall such a rate be determined? There is probably no good reason for taxing segregated property more heavily than other property. If discriminatingly heavy taxes are imposed, the incidence will fall chiefly upon the users of the service, for such enterprises are subject to regulation in respect to the rates they may charge.[2] On the other hand, there is usually no valid reason for according such enterprises especially favorable tax treatment, thereby relieving the users of the service from a part of the cost which should be paid.

Where the segregated property is subject to an ad valorem tax, the determination of a rate that will produce the equivalent of the yield from other property is relatively simple. The Michigan scheme of taxing such property at the average rate for non-segregated property has the double advantage of being automatic and not requiring administrative discretion or legislative adjustment. Where a gross earnings tax obtains, the method of determining such an equivalent tax must be more indirect and difficult. Thus California valued the segregated property and ascertained the gross earnings thereof, then applied the average tax rate of non-segregated property, and finally determined such a rate on the gross earnings as would be equal to the rate on the non-segregated property.[3] Obviously such a rate, to a large extent,

[1] From *Reports of Controller*, for respective years.

[2] Such at least is the shifting today where rate regulation is reasonably effective. It may have been different, however, in 1906 when the California commission argued for higher taxes on certain utility properties.

[3] If this principle is to be followed, trouble is brewing in another quarter: The revenue will be unstable and uncontrollable. In California during the years following the World War the state revenue was inadequate, and a state property tax was threatened. Later, in 1928, there was said to be a surplus which could not be wisely spent by the state. Yet if the rate on the segregated property must be gauged by the average rate on property in general, it cannot be adjusted to cope with either deficits or surpluses. While this problem of a troublesome surplus is not insuperable,

must be guesswork. Being fixed by the legislature, as in California, it must be based largely upon political considerations. Conditions are not improved where, as in Minnesota, the constitution requires any change in the rate to be approved by popular vote at a referendum.[1]

TABLE 58

RATES OF STATE TAXES ON CALIFORNIA CORPORATIONS, 1912–28*

Kind of Corporation	1911 (per Cent)	1913 (per Cent)	1915 (per Cent)	1917 (per Cent)	1921 (per Cent)	1927 (per Cent)
Electric and street railways†	4.0	4.75	5.25	5.25	5.25	5.25
Steam railroads†	4	4.75	5.25	5.25	7.0	7.0
Short line steam railroads†	4	4.75	5.25	5.25	7.0	5.25
Gas and electric companies†	4.0	4.6	5.25	5.60	7.5	7.5
Telephone and telegraph companies†	3.5	4.2	4.5	4.2	5.5	5.5
Car companies†	3.0	4.0	3.95	3.95	5.25	5.25
Express companies†	2.0	2.0	1.6	0.9	1.0	1.0
Insurance companies‡	1.5	1.75	2.0	2.0	2.6	2.6
State and national banks§	1.0	1.0	1.2	1.16	1.45	1.45
Corporate excess‖	1.0	1.0	1.2	1.2	1.6	1.8

* From *Final Report of 1929*, p. 30.

† On gross earnings.

‡ On gross premiums.

§ Applied to capital, surplus, and undivided profits, minus assessed value of real estate locally taxed. Since 1929, banks are taxed on their income.

‖ On corporate excess.

It is interesting to note the legislative changes in rates that have taken place in California. It will be seen, as shown in Table 58, that changes have been frequent and, except for the rate on the earnings of express companies, generally upward. The changes in the rate on non-segregated property have also been upward, but whether the rates were properly determined in the first place and have since been merely properly adjusted so as to maintain the uniformity between segregated and non-segregated property cannot be definitely known.

---

it was one of the reasons for the establishment of the special tax commission of California, which has just completed its report (1929).

[1] Art. iv, sec. 32*a*.

The frequent changes indicate difficulties in ascertaining the proper rate structure. The fact that the changes have been less frequent since 1917 does not necessarily indicate that the rates as left by the act of 1927 are satisfactory. The 1928 Commission of California was excellently equipped to investigate the situation. The general reaction of the Commission was as follows:

> Perhaps the most serious criticism which may be urged against the system of separation is found in the troubles which have been encountered in the attempt to make certain that the rates imposed upon the corporations taxed by the state are fair in view of the tax burden being borne by property locally taxed. . . . . The changes have been frequent, and the disputes accompanying them have been bitter. The decisions which have been reached have caused dissatisfaction to all parties concerned. The corporations complain that they have been over-taxed and have been deprived of protection which they would have received under the old system. On the other hand, the feeling is general throughout the state that, in spite of all the adjustments, the corporations are evading their "fair share" of the tax burden.[1]

The Commission did not recommend the continuation of the particular taxes in existence at the time, for these reasons:

> However, the very effort to refine the process of arriving at a determination of the rates serves to demonstrate the inherent difficulties involved, if not the complete futility of any attempt to arrive at a strictly scientific solution. Any set of rates which may be set up involves assumptions with respect to factors concerning which it is quite impossible to secure satisfactory data. As one adopts one assumption rather than another, the resulting rates undergo violent change, and the question of the correctness of adopting one assumption rather than another is in many cases clearly open to debate. Even when one discounts the influence of special interests, it must be granted that there is ample ground for sincere differences of opinion.[2]

The Commission recommended that the operative real property of public utilities be valued by the state and that the valuation be returned to the counties to be added to the local tax rolls and taxed like other local real property; that the franchise tax on corporations in general be measured by net income; that the state levy such direct property tax as its revenue needs may require; that the personal property tax on corporations be abolished; that the gross premiums tax

[1] *Final Report of 1929*, p. 52.

[2] *Ibid.*, pp. 52, 53.

on insurance companies be retained, with modifications; that a vote be taken on the question of substituting a personal income tax for present property taxes on intangibles; and that certain other taxes, not pertinent to this discussion, be modified.[1] The recommendation amounts to a complete abandonment of segregation as a fiscal policy. The legislature submitted a constitutional amendment, and subsequently enacted legislation thereunder providing for a 4 per cent corporate-income tax for business corporations, including banks, but not public utilities, with an offset for real and personal property taxes paid, not exceeding 75 per cent of the 4 per cent tax, and not exceeding 10 per cent of real estate taxes, the minimum tax being $25 for each corporation.

D. SEGREGATION AND PUBLIC EXTRAVAGANCE

Fear was expressed years ago that the increased revenue which segregation would make available would lead to extravagance in state and local expenditures. And it has since been insistently charged that these fears were actually realized. One might admit an increase in expenditures without necessarily admitting any corresponding increase in the legitimate tax burden. The increased efficiency in tax administration that accompanied the system of segregation, though not necessarily or inseparably a part thereof, did lead to the taxation of much property that had hitherto illegally escaped. While expenditures have generally increased, they appear not to have increased appreciably more in states with segregation than elsewhere. The commission of 1928 failed to find evidence that separation had led to extravagance:

> A very serious charge which has been brought against the present system is that it has generated an attitude of mind among the people that, since the corporations meet the expenses of the state government, it is a matter of no moment to them whether or not state expenditures are wasteful. . . . . However, the Commission's analysis . . . . fails to yield a statistical demonstration that this attitude of mind, if it does exist, has had the effect of extravagance in state expenditures in California. It is true that state taxes are high in California, but the tax of $15.76 per capita was exceeded in eleven other states in that year. All of these states draw on the general property tax for state revenues, some of them obtaining more than half of their tax revenue from this source.

[1] *Ibid.*, pp. xxiii–xxiv.

California state taxes were high in 1910, the last year in which the state used the property tax for support. In that year 70 per cent of state taxes came from the general property tax; yet the per capita state tax in California was exceeded in amount in only one other state—Nevada. Further, the increase in per capita taxes has been greater between 1910 and 1927 in nearly all of the other states than in California.[1]

There seems to be no particular merit in segregation of property taxes for state and local purposes. It has no advantages that cannot be attained in some other way. The most vaunted argument in its favor, that it removes the motive for undervaluation of property in order to escape a part of the state tax, is not sound. There is serious objection to weakening the state's interest in the local assessments. Separation of sources, on the other hand, there is bound to be, as the states find it necessary to resort to other tax bases than property, for the state must necessarily administer these other taxes, since the tax on property is practically the only tax capable of local administration. The revenue from these other taxes need not, of course, be retained for state use, but the apportionment or allocation should be made on such bases as will foster the state's interests in locally performed public services. For the same reason, the state should probably retain a state direct levy in order to insure or intensify its interest in equitable local assessments.

It is not impossible, however, that the unsatisfactory results in California are partly due to local conditions, or to the particular form of taxes used, or to the lack of an effective administrative tax commission. In Minnesota, where gross receipts taxes are also used, though not to the extent of achieving complete segregation of sources, there has been no such upheaval as in California. In New York, Delaware, and Pennsylvania, on the other hand, where segregation as an incidental result has been practically achieved, there is no objection to it as a matter of principle. In fact, segregation as a definite policy was conceived in California; it seems destined to end its existence there.

[1] *Final Report*, p. 71.

CHAPTER XI

THE INVENTORY

To what extent is the general property tax, requiring or permitting various degrees of uniformity or classification in the forty-eight states, actually administered as contemplated in the law? There are three ways in which the practice may differ from the legislative intent: first, not all of the taxable property may be listed for taxation; second, the part of the taxable property that is listed and taxed may be entered on the tax roll at assessment ratios differing widely from the ratio legally required; third, on some items of taxable property the taxes extended may not be paid. It is obvious that these three practices of nonlisting, nonuniform assessments, and nonpayment of taxes may lead to tax exemption or classification quite as effectively as any statutory or constitutional provision.

The first task of the tax official is to obtain a complete inventory of taxable property within his jurisdiction. That he fails in this is well known; and, with the present tax laws, it is not entirely a matter of regret. Yet he does not fail equally for all types of property or in all states and tax jurisdictions. In this chapter little more is attempted than to show the extent of nonlisting and the factors that cause it. Unfortunately, the attempt is bound to be partly abortive, because in the nature of things, it is not possible to ascertain, even approximately, the amount of taxable property that escapes the tax roll. The assessor knows, and presumably lists, what he finds; what he does not find must of necessity be an unknown quantity. But miscellaneous evidence from many sources proves that evasion by nonlisting is extensive.

I. REAL PROPERTY

Real property, especially land, it might be supposed, could not escape. It cannot be moved away; its existence cannot be denied; it cannot be hidden; and its ownership cannot be a matter of serious uncertainty, since transfers are seldom completely valid until and unless

recorded. Moreover, ownership is not a matter of supreme importance, since real estate may be assessed to unknown owners and the lien runs against the property. Diligence and efficiency on the part of the tax official ought to achieve an approximately complete listing. Yet in every state certain areas escape every year. The 1912 Special Tax Commission of Kentucky described the conditions not only in Kentucky but in other states as well:

> The large discrepancies from year to year in the total acreage of land assessed, both in individual counties and in the whole state, cannot be explained on any other hypothesis than that land escapes taxation. They cannot be explained away as clerical errors. If they could be, the matter would be quite as bad. For if clerical errors of such dimensions occur so regularly on one part of the roll, there is great possibility that they occur also in other and more vital parts of the roll. If, in Caldwell County, there were 212,347 acres of land assessed in tracts in 1911, where were some of those acres in 1910 when only 191,759 acres were so assessed? Campbell County has a superficial area of 92,800 acres, yet there were only 64,854 acres assessed in tracts in 1912. That the difference of nearly 28,000 acres was not in town lots in Newport, Dayton and Bellevue, is demonstrated by the fact that there are 88,274 acres found by the Census Bureau in farms in that county. Why were these 23,500 acres not in evidence on the rolls? If in 1908 the assessor in that same county found 91,823 acres in tracts, and in 1910 again 91,328 acres, where had some of these acres gone to in 1912 when only 64,854 were left?
>
> There are, of course, in nearly every county some "tracts" of land not included in farms, such as forests or mineral lands. Hence, the acreage assessed in tracts should normally exceed the acreage reported in farms. Conversely, it is hardly conceivable that there should be more acres in farms than are assessed in tracts, if the assessment be complete. But the fact is that there are at least thirty-three counties in which there are more acres in farms than there are acres assessed in tracts. The total acreage of farm lands thus unassessed in these thirty-three counties alone is far more than 200,000 acres. How much more there is in these and other counties we do not know, but that it is very large is certain.[1]

Nonlisting of land is less prevalent than in colonial and frontier statehood days. Land titles are better established, and time has permitted more complete recording systems, as well as more complete surveys. The system of laying out land in rectangular sections has

[1] *Report of the Commission, 1912–1914.*

facilitated the checking of tax records against land surveys. Early data showing nonlisting are surprisingly inadequate. Legislative and other commissions have been more concerned with proving undervaluation than incompleteness of the lists, probably largely because undervaluation can often be proved by reference to sales records, while nonlisting is not readily provable, there being practically no external data against which the lists might be checked so long as the surveys are ignored. Only in recent decades has the Bureau of the Census yielded trustworthy data of the land areas and classes of land. Such information as is available from public land offices, federal and state, has not been utilized effectively, perhaps because there has not been, until the advent of the permanent state tax commissions, any competent permanent body of investigation.

Not only have such political bodies failed to lay bare adequate evidence of nonlisting of land, but the same charge may, with almost equal inclusiveness, be made against the few scholars whose research has been in this field. Financial histories have been written of a number of states, but seldom is this type of tax evasion adequately treated. It is told, for example, that in Virginia in 1646 there was "great defect in the titheable persons, lands, horses, mares, etc., to the prejudice of many who have duly and according to law presented their lists."[1] But there is no quantitative analysis. It is shown that in Massachusetts, in 1647, it was ordained by the General Court that real property should be taxable where it lay, because each year many persons escaped taxes by leaving town just before taxes were due. If such a simple expedient could achieve evasion of taxes on land, it is certain that there must have been a great deal of it. Ten years later, 1657, land outside organized towns tended to escape; and, to avoid this escape, such land was to be taxed at the rate of two shillings per one hundred acres, the selectmen of each town to take account of all such lands lying near their towns.[2] While these references are obviously fragmentary, and while elsewhere, except in the study of Texas,[3] there is even less evidence of nonlisting, it will not do to conclude that there was no problem.

On the contrary, the fact that E. T. Miller has discovered that such

[1] Ripley, *The Financial History of Virginia*, p. 26.

[2] Douglas, *Financial History of Massachusetts*, p. 27.

[3] E. T. Miller, *A Financial History of Texas* (1916).

evasion was carried on to an astonishing extent, would lead, together with other evidence, to the conclusion that such evasion has been quite general. Miller shows that in 1849 the area assessed in Texas was 32,890,887 acres, while the area patented and deeded was 45,234,987. In 1850, 5,000,000 acres were added to the list by giving the comptroller of the state the right to assess the nonlisted lands. But this practice was speedily abandoned; and thereafter the area listed became stationary, although the patenting and deeding went on. In 1876, the comptroller reported that more than 35,000,000 acres, or more than one-third of the total patented and deeded area, was not listed. Later the comptroller virtually confessed his inability to assess such lands.[1]

A summary of the circumstances, still effective today, that facilitated the escape of land, especially under pioneer conditions, will indicate the remedies required. First, there was in every frontier community an indisposition to pay any taxes at all; this is partly explained by the fact that the government did very little for the pioneer. Second, the assessment methods were primitive. Almost invariably the owner was required, not only to list his holdings, but also to classify and sometimes to value them, the assessor being merely present to receive the list. The obvious remedy, now applied in some of the states, namely, a permanent cadastre or record of all land in public records, was apparently not deemed necessary or expedient. A third reason, of great weight in the early days, was the instability of district lines and title records. As a fourth explanation may be cited the practice of permitting owners of land to list it with the state auditor or other state official, or in some county other than that where the land was located.[2] Finally, the escape of buildings and improvements on land may be partly accounted for by the practice, still prevalent generally, of not listing them separately from the land, with the result that many were not accounted for.

While the technique of the assessor for finding real property and placing it upon the tax roll has improved, his task has become much more difficult with the growth of population and industry, with the consequent subdivision and differentiation of property, which in turn has made it necessary to divide the assessment function between the

[1] *Ibid.*, pp. 107–9.

[2] Cf. R. M. Haig, *A History of the General Property Tax in Illinois*, pp. 44–49, for a presentation of the problem of nonlisting in Illinois.

local assessor and some state assessing board.[1] Thus, operating railroad property is generally centrally assessed while non-operating property is assessed locally; but the line of cleavage between operating and non-operating property is not always clear, and the local assessors often fail to apprehend some of the latter, especially when changes in its use take place. And if some of the railroad property is leased for use as site for warehouses, grain elevators, and coal sheds, the leasehold interest may escape, as being not taxable to the railroad and not found by the local assessor. Moreover, the splitting up of fee simple equities into *life estates*, *remainders*, *easements*, and similar partial estates, has led to omissions, although such a condition is more likely to lead to the assessment of the entire equity to some one of the limited equities.

II. PERSONAL PROPERTY

Personal property escapes much more readily than realty. It can often be hidden, and is seldom publicly recorded. Our sensitiveness in regard to such information as private inventories closes, practically and legally, such sources to the tax official. Property taxes tend to become increasingly taxes on real estate. This, too, is shown by the report of the Kentucky Commission. Its findings are generally applicable.

The first fact to which attention should be called is that under the existing system personal property tends to form a constantly decreasing proportion of the total property assessed for taxation. It is generally admitted that under modern conditions the amount of personal property in existence always equals and frequently exceeds the amount of real property.[2] In a state like Massachusetts or New York some would have it that the personal property is two or three times as large as the amount of real property; whatever the exact proportion may be, it is certain that it cannot be less than, and probably greatly exceeds, the amount of real property. During the nineteenth century it is certain that the increase of personal property was particularly rapid; yet the statistics covering this period show that this class of property has usually formed a decreasing proportion of the total assessment.

An interesting demonstration of the fact that personal property has largely disappeared from the tax roll, and that the taxing officials have accepted this disappearance with more or less good grace, is found in

[1] Cf. chaps. xiv–xvii, *infra*.

[2] There is, unfortunately, no trustworthy evidence to prove this estimate.

New York. In thirty-four selected townships the assessed value of personal property was $1,332,219 in 1887; by 1897, it had risen to $1,717,295; but thereafter the amount declined, every year except one, until in 1924 it was only $50,210.

In the years before 1910 practically all of the thirty-four townships reported assessment of personal property, but in 1924 only ten had any such assessment. In 1912 a law was passed exempting household furniture and personal effects to the value of $1,000, but the curve[1] does not give the slightest indication that this law had any effect. Rather it points to a conclusion that the law was passed as a recognition of the failure of the personal property tax.[2]

This tendency is less noticeable in certain other states. Thus in Kansas the largest percentage contributed by personalty to the assessment was 34.15 (in 1865). The proportion of personalty in the assessment then declined irregularly until in 1895, when the lowest ratio, 10.61 per cent, was reached. Since then, however, there has been a fairly steady increase until, in 1920, the percentage of the personalty was 26.05 of the total assessment.[3] In Minnesota, in 1870, the proportion of personalty was 28 per cent; this declined until in 1910 the percentage was about 17,[4] and in 1920 approximately 16.[5] In Illinois the corresponding ratio was 27.8 per cent in 1850; 20 per cent in 1900; 23.1 per cent in 1920; and 18.4 per cent in 1927.[6] The story is the same with minor variations in all the states.

It may be, though it is hardly probable, that the decrease in the ratio of taxed personalty has been arrested. If so, where it is really true, it is doubtless due to the administration of increasingly efficient tax commissions. It is also partly due to the fact that a great deal of property is now assessed by central state authority—and is classified

[1] Of personal property assessments.

[2] M. S. Kendrick, *An Index Number of Farm Taxes in New York and Its Relation to Various Other Economic Factors*, Cornell University Agricultural Experiment Station, Bulletin 457 (1926), pp. 11–13, 37.

[3] *Seventh Report to the Legislature by the Tax Commission* (1921), p. 26.

[4] *Report of Tax Commission 1912*, p. 176.

[5] *Report of Tax Commission 1920*, pp. 174, 230.

[6] S. E. Leland, "The Breakdown of the Personal Property Tax in Illinois and Its Solution," *National Tax Magazine*, July, 1929.

separately, e.g., as railroad property, which is not always separable readily into real and personal property. But if the ratio of real to personal property is not increasing, it is already sufficiently low to justify concern.

A. TANGIBLE PERSONALTY

Many species of tangible personalty do not always readily escape. Livestock, farm equipment, public utility properties, steam and sailing vessels, factory machinery and equipment, merchants and manufacturers' stores and stocks, and other such categories of property can be and usually are found. Still, there are wide differences within each of these groups. Certain other tangibles such as clothing, household goods, personal effects, and ornaments such as jewels, watches, clocks, and pieces of art, rarely are placed on the tax roll.

Almost any study of property taxes furnishes corroboration of this statement. A study of assessments in the city of Austin, Texas, says:[1]

> After money and credits, the property which most easily escapes taxation is jewelry, gold and silver plate, watches, clocks, household furniture in excess of the exemption to each head of a family of $250, libraries, and similar property in the hands of their users. One would judge from the assessments of jewelry, including diamonds, and of gold and silver plate, that the well-to-do residents of Austin eschewed all vain show, for only $19,601 of jewelry and $4,945 of gold and silver plate were rendered. The assessed value of watches and clocks was $18,575, and it is worthy of remark that of a population of over 34,000 only 605 persons were honest enough to declare their watches for taxation. Austin is a city with many beautiful homes, and not a few of them are expensively furnished with "period" furniture and oriental rugs, yet the total assessed value of furniture and sewing machines was only $54,033. Pianos and organs in the hands of users were assessed at $72,000. One hundred and thirty-nine home and professional libraries were assessed for $18,170, and the bulk of this was for the books of persons practicing the professions of law, medicine, engineering, or teaching. There are many brave hunters in Austin and there are not very many homes which are without a weapon of defense, yet in 1916 only 68 persons rendered firearms, and the amount for which they were assessed was only $1,055. Ten persons were assessed for dogs, and their declared value for taxation was $290.

[1] E. T. Miller, "The General Property Tax in Austin," *Proceedings*, 1917, p. 372.

One reason for the escape of personal property is the elusiveness of the owners. Usually the owners of real property and business plants are readily found.[1] The increasingly large urban population, without a settled place of residence or business, can often not be located and assessed. This was even found to be strikingly true in the small city of Austin:

> Practically the only persons reached for personal property taxation were owners of real estate and persons who by reason of being engaged in business and in professions had established locations, and so could be easily found by the assessing officials. The total number of renditions of personal property was only 731 in 1916, and the valuations were $1,186,980. However, the number of renditions of personal property made by persons rendering only personal property and who were not engaged in any business or profession, except teaching, was 297 and the assessed value rendered by them was only $154,698.[2] It may be true that on the average those who have no real property will also have but little personalty. But there are many relatively wealthy persons whose property is entirely personal.

It is desirable to distinguish the different kinds of tangible personal property that evade the assessor. The forms of the assessor usually specify in considerable detail the items to be listed, such as horses, watches and clocks, pianos, radios, sewing machines, automobiles, and so on. A large share of the taxable personalty cannot be numbered but must be assessed in bulk, such as grain, merchandise, household goods, and so on. But these lists are not uniform in all states and not even always uniform in all the counties of the same state. It is, therefore, not possible nor necessary to present data showing evasion for all the states on a comparable basis. But it is desirable to distinguish types. The most useful distinction is that drawn between so-called productive and unproductive personalty. Household goods may be taken as typical of the former; merchandise and manufacturer's stock and live stock of the latter. There are, however, many items, some of them important, which do not readily fall into either class; automobiles are typical.

In Colorado, where perhaps the assessors may be unusually diligent

[1] If not found, the difference is not great where, as is almost always the case, the tax is a lien on the property. Land may be taxed to an unknown owner.

[2] Miller, *op. cit.*, p. 373.

in listing household goods, this class of property formed 1.55 per cent of the total assessment in 1919, and 2 per cent in 1929. But in the former year the per capita asssessed value was only $26.69 while in the latter, it was $28.53, which would mean perhaps $125.00 per family.[1] In Illinois, in 1900, household and office furniture was assessed to the amount of $9,416,000, which was 5.645 per cent of all personal property assessed, but only 1.13 per cent of all property assessed. In 1927, the assessed valuation of household and office furniture was $69,-596,000, which was 4.68 per cent of all personal property, but only .86 of 1 per cent of all property.[2] Household furniture is obviously an insignificant part of the total taxable property of the state. It is not merely the small amount assessed that is significant. Thus, of the $69,596,000 of household and office furniture assessed in 1927 in Illinois, only $9,622,757 was in Cook County, which had more than 50 per cent of the population of the state and might reasonably be supposed to have a larger per capita allotment of both household and office furniture than the rest of the state.

Clocks and watches are another item of unproductive personal property which may be easily checked where it is reported separately. Thus in Colorado there were assessed 29,470 watches and clocks in 1919 or 1 per 30.9 persons in the state, which would be about 1 for every six or seven families. By 1928, however, the number assessed had dwindled to 18,117, or 1 per 60.2 persons, or roughly, 1 per twelve families.[3] In Illinois the valuation of clocks and watches in 1867 was $1,070,000; by 1927 it had shrunk to $1,052,000. Here again, Cook County distinguishes itself by having little to tax. For while that county listed 7,571 watches and clocks in 1867, the number shrank to 6,281 in 1927; and the value thereof was $96,888 in the former year, and $117,907 in the latter.[4] It seems unnecessary to comment further upon an assessment of watches and clocks amounting to about 3 cents per capita or 1 watch or clock per 400 or 500 persons.

As one plods laboriously through the records of assessments of non-productive personal property in states where these records are given,

[1] Jensen, *Survey of Colorado State Tax System*, p. 65.

[2] Leland, *op. cit.* From manuscript. These figures omitted in article.

[3] Jensen, *op. cit.*, p. 64.

[4] Leland, *op. cit.* From manuscript. These figures omitted in article.

one meets equally ludicrous situations everywhere. It cannot be the fault solely of the taxpayer. Such extensive evasion as is practiced in many localities cannot possibly go on without the connivance of the assessor. There would be no serious objection to the escape of all such property if it were practiced uniformly. But the records show clearly that in some localities, for various reasons, there is a fair listing, while in others there is scarcely any at all. It is reported in numerous assessment districts that no attempt is made to assess a great variety of items. The assessor's good sense tells him that it is futile to try. The result is that, in the industrially developed states particularly, and in the urban as contrasted with the rural areas, the assessment of nonproductive personal property is haphazard, arbitrary, and usually futile.

When one turns to inspect the assessment of productive personalty one is faced with the absence of any standards against which one can check the assessed valuations. For merchandise and manufacturers' stocks and stores, and for machinery, tools and implements, we have assessments in bulk. There is no doubt but that the assessments of these and kindred classes of property is defective, but it is a technical question of no great practical significance whether the defect is due to nonlisting or to undervaluation. On the other hand, the assessment of productive personalty is far better than that of the unproductive variety. And there appears to be no reason why such property should not be listed successfully, provided qualified assessors are employed.

Agricultural property, such as implements, livestock, and produce, is probably listed more adequately than any other important class of productive personalty. In Colorado the swine assessed in 1919 were 43.3 per cent in number, and 36.5 per cent in value, of the estimates made by the United States Bureau of Crop Estimates. These percentages should be taken in connection with the seasonal character of hog production. On April 1, the tax day in Colorado, there probably is nearly a minimum of swine, both as to number and value, on the farms. That this is true is suggested by a comparison of the ratio of hogs listed to those estimated, with the corresponding ratios for other species of livestock, as shown in Table 59, for 1925 and 1928. It will be seen that swine show the lowest ratio of listed to estimated number of animals. However, such evasion is evidently very unequally dis-

tributed. For, in 1928, the ratios of assessed to estimated swine was less than 10 per cent in six of the sixty-three counties, and less than 30 per cent in twenty-five counties, while in five counties the ratio was over 60 per cent.

The rapid growth in recent decades of the number of motor vehicles has raised the question whether this very mobile form of property evades taxation through nonlisting in considerable quantities. It would appear that, on the whole, the estimates of evasion are greatly exaggerated. Yet, in certain localities, chiefly urban, the evasion is serious.

TABLE 59

RATIOS OF NUMBER OF LIVESTOCK ASSESSED TO NUMBER ESTIMATED BY UNITED STATES BUREAU OF CROP AND LIVESTOCK IN COLORADO, 1925 AND 1928*

Species of Stock	1925	1928
Horses	76.73	73.99
Mules	86.68	72.74
Dairy cows	76.77	50.84
All cattle	69.49	68.19
Sheep	99.42†	133.05†
Swine	37.15	33.83

* Jensen, *op. cit.*, pp. 66–69.

† Ratios somewhat misleading, the assessment and estimates not being quite comparable. Animals fed in transit are included in the assessment.

The fact that these vehicles are registered, or at least required to be registered, provides a check upon the assessment. This check is not perfect, for several reasons. In the first place, many vehicles, such as those publicly owned, are exempt. In the second place, the tax day is usually in the early months of the year, while many vehicles are purchased later. The purchase is in fact often delayed until after the tax day. If the number of vehicles owned were constant year after year, only those deliberately purchased late would affect the check, and even they would not do so in proportion to their number, unless the dealers practiced tax avoidance also. With these allowances it appears, as a whole, that most of the vehicles are assessed. Thus, in Colorado in 1919 the vehicles assessed amounted to 72.5 per cent of the

registrations, and in 1929 to 76.3 per cent. But here, as with household goods and livestock, the degree of evasion or avoidance is very uneven. For among the counties the assessment ratios showed wide variations. The ten-year average of the ratio of assessed to registered vehicles varied from 58.1 per cent to 91.2 per cent.[1] As always, the average tends to conceal extreme variations.

A much less satisfactory condition appears to exist in Illinois. In 1919 the number of automobiles assessed was only 54 per cent of the number of licenses issued, and in 1927 the figure had shrunk to 37 per cent. But the low average is due largely to the unconscionably ineffective assessment in Cook County. In that county in 1927 only 21,612 automobiles were assessed, although 560,436 licenses were issued. The percentage which the listings composed of the licenses was, therefore, only 3.9 per cent.[2] Outside of Cook County the ratio of automobiles assessed runs about 10 per cent to 15 per cent lower than in Colorado.

B. INTANGIBLES

Of all classes of property, intangibles escape with greatest ease and frequency. As the Austin study shows:

> Of the total 1916 personal property assessments of $5,656,486 there was $2,529,525, or 44.7 per cent of intangible personalty—that is money, credits, and securities. This is a large percentage for intangible personal property, but one's admiration for this assessment achievement subsides when the discovery is made that $1,841,235 of the intangibles is bank stock and the securities deposited in the state treasury in Austin by foreign insurance companies. Only $688,290 was the sum of the intangibles which were difficult of assessment, and this was 12 per cent of all the personal property assessments. Assessed credits amounted to $502,128, and the amount of money assessed was $177,177. The individual deposits and certificates which were reported by the four banks of Austin on December 31, 1915, were $7,436,349. Assuming, and this is too generous an assumption, that only one-half of this belonged to taxable persons in the City of Austin on January 1, 1916, and reducing this share of one-half to the tax basis of two-thirds, the $177,177 reached was only 7 per cent of the amount taxable. In all probability it was less than 1 per cent of the amount taxable. The number of persons assessed for credits was 164, and the number assessed for money was 192. How absurd and farcical that, of a population of 34,000 and of more than 6,000 persons

[1] Jensen, *op. cit.*, pp. 70–73.

[2] Leland, *op. cit.*, p. 289.

and firms listed for taxes, only 192 should have been possessed of any money on January 1, 1916. Only three persons were assessed for stocks and bonds of corporations other than banks, and two persons were assessed for shares of unincorporated companies. The total of the assessments of these five lonely persons was $8,985. No annuities or royalties were rendered for taxation, though Austin is supposed not to be without annuitants, inventors, and authors.[1]

The same condition was found by the Kentucky Commission, which in commenting upon the constitutional requirement that "all property . . . . must be assessed and taxed in the same manner, and on the basis of its actual value in money," says:

This is a provision that has never been carried out literally, which cannot be carried out in practice, and which should not, even it it could, be enforced. In compliance with the dictates of this constitutional provision the statutes provide for the taxation of "bonds, notes secured by mortgages, other notes, accounts, cash on hand, cash on deposit in banks, cash on deposit with other corporations, cash on deposit with individuals, all other credits or money at interest, stock in joint stock companies or associations, and stock in foreign corporations." The grand total of all of these as assessed in 1912 was $83,-147,772, or less than 10 per cent of the total roll, which was $840,479,194.[2]

An indication of the evasion of intangibles under the general property tax may be had from a comparison of the assessments of intangibles in the states which employ low-rate taxes on intangibles. The changes in the assessment after the substitution of the low rates for the general property tax may be noted, for those states whose reports are capable of such comparison may be seen from Table 60. Not all of these states show such an increase, even after several years under the low-rate tax, that it may safely be ascribed, to any great extent, to the low rate. Thus in Iowa the assessment of money and credits under the general property tax in 1910 was $194,198,000. The first year of the low-rate tax, the assessment fell to $170,131,000. The assessment rose, however, to $497,334,000 in 1927, sixteen years later. But, in Kentucky, the negligible amount of bank deposits, $11,277,000 in 1917, jumped to $179,143,000 the following year, and continued to rise till it was $349,146,000 in 1927. With the possible exception of bank deposits in Kentucky, probably the intangible assessments in these states

[1] Miller, *op. cit.*, p. 371. [2] *Op. cit.*, p. 71.

TABLE 60

ASSESSED VALUATION OF INTANGIBLES BEFORE AND AFTER THE IMPOSITION OF LOW-RATE TAXES IN SPECIFIED STATES*
(In Thousands of Dollars)

State and Class of Property	Under General Property Tax		Under Classified Property Tax		
	Year	Amount Assessed	Year	Amount Assessed: First Year after Change	Amount Assessed: 1927
Iowa:					
Money and credits..	1910	$194,198	1911	$170,131	$497,334
Kansas:					
Money and credits..	1924	120,062‡	1925	148,667	153,528
Kentucky:					
Intangibles........	1917	68,750	1918	246,348	490,549
Bank deposits.....	1917	11,277	1918	179,143	349,146
Maryland (Baltimore):					
Intangibles........	1896	6,000	1897	58,703	391,071
Minnesota:					
Money and credits..	1910	74,822	1911	115,481	414,734
Other†...........	1910	52,693	1911	40,619	29,181
Montana:					
Money and credits..	1918	8,869	1919	64,314	50,599
Other†...........	1918	13,816	1919	22,056	9,897
Nebraska:					
Intangibles........	1921	85,630	1922	141,607	142,235
South Dakota:					
Intangibles........	1918	15,909	1919	110,896	70,626
Vermont:					
Intangibles........	1926	17,237	1927	69,778	69,778
Virginia:					
Bonds, notes, etc...	1914	49,197	1915	61,407	219,878
Shares of stock.....	1914	13,792	1915	28,604	91,012
Capital..........	1914	28,572	1915	60,514	152,337
Money on deposit..	1913	14,002	1914	25,820	88,959

* S. E. Leland, *Proceedings*, XXI (1928), 295–99.
† Not under low-rate mill tax. Includes bank stock.
‡ Includes domestic real estate mortgages, which are not included for 1925 and 1927.

represent less than half, and in most cases less than 25 per cent, of the taxable intangibles. But to the extent that the assessments increased do they reflect previous evasion, except, of course, in so far as the increase was due to the natural growth of wealth in these states. It is interesting to note that in Minnesota and Montana the "other" intangibles, subject to the general property tax rate, including bank stock, actually declined. Such decline would probably also have been evident in the general intangibles of these states had they remained subject to the general property tax.

If the states with low-rate taxes on intangibles have raised their valuation of intangibles by the imposition of the low-rate tax, then it becomes interesting to see how far behind some of the other states applying the general property tax to intangibles have fallen in their assessments. Such a comparison between the low-rate states and Illinois is made in Table 61. The per capita assessments of intangibles in Illinois was only $20.69 in 1927. In all the low-rate states the assessment was over three times as high, and in the District of Columbia nearly 45 times as high. Yet the indexes of the ratio of assessment of intangibles in individual bank deposits, and to loans and discounts of all reporting banks, corroborate our conclusion from general observation that the per capita assessments in Illinois should have been as high as in most of the other states used in the comparison, and much higher than some, such as South Dakota and Montana.

While Illinois is perhaps near the bottom of the list in the per capita assessment of intangibles, it is a simple matter to find other states in which the assessment is very low, and sinking lower. In North Carolina, in 1921, the per capita assessment of intangibles was $73.77, but in 1927 this figure had shrunk to $51.94.[1] In 1928 Ohio assessed intangibles, exclusive of bank stock, to the amount of $729,332,417, or about $109.50 per capita.[2] Ohio would probably be selected as the state in which the assessment of intangibles at the general property rate had been most strenuously and consistently attempted in at least three ways, namely: stringent restriction of deductions of debts;[3] limitation of tax rates partly for the purpose of forcing upward the assess-

[1] *Report of Special Tax Commission, 1928*, p. 323.

[2] *Report of State Tax Commission, 1928*. Table facing last page of report.

[3] Cf. chap. iv, *supra*.

ment of intangibles;[1] and the employment of special "tax ferrets" to locate and assess intangibles.[2] Elsewhere, the performance record of

TABLE 61

COMPARISON OF PER CAPITA ASSESSMENTS OF INTANGIBLES IN STATES TAXING INTANGIBLES AT LOW RATES WITH SIMILAR ASSESSMENTS IN STATES TAXING INTANGIBLES AS GENERAL PROPERTY, AND RATIOS OF ASSESSMENTS TO BANK DEPOSITS AND TO LOANS AND DISCOUNTS*

State and District	Per Capita Assessment of Intangibles, 1927	Ratio of Assessment of Intangibles to	
		Individual Bank Deposits in All Reporting Banks, 1927 (per Cent)	Loans and Discounts in All Reporting Banks, 1927 (per Cent)
Pennsylvania	$789.06†	163.1	244.50
Connecticut	78.63‡	11.7	16.86
Maryland	303.59	66.7	109.68
Minnesota	154.41§	46.6	75.82
Iowa	205.09	61.0	80.68
Rhode Island	319.50	45.6	82.00
Virginia	219.92†	129.9	102.95
Kentucky	330.85	197.8	131.87
District of Columbia	918.35	209.0	272.72
Montana	70.87 ‖	36.3	60.63
South Dakota	101.48	54.9	77.90
Nebraska	101.88	34.5	42.09
Kansas	83.99§	37.7	49.36
Vermont	198.23	31.5	45.02
Illinois	20.69†	19.65	5.44

* Adapted from S. E. Leland, "Taxation of Intangible Property," *National Income Tax Magazine*, September, 1929, p. 351.

† Does not include bank stock.

‡ Includes intangibles locally assessed.

§ Does not include intangibles not under money and credits tax.

‖ Does not include bank stock and other moneyed capital.

the assessor is much worse. In Wyoming, exclusive of shares in corporations, the intangibles assessed in 1928 were less than 75 cents per capita.[3]

[1] Cf. chap. xix, *infra*. [2] Cf. chap. xiv, *infra*.

[3] *Report of State Board of Equalization, 1928*, Table 1.

From the report of the Kentucky Special Tax Commission, which is similar to numerous other sources, we may take some of the reasons for the concealment of money and credits from taxation:

> The fact is that a man cannot keep his money on deposit in a savings bank if, out of the 3 per cent interest received, he has to pay 2 per cent in taxes. Hence he either returns a false statement (perjury committed) or withdraws his money and sends it out of the state. Again, bonds, safe enough for a sound investment, yield only 4 or 4½ per cent interest; take 2 per cent from that for taxes and the yield is too low. An honest taxpayer cannot invest in these desirable securities; one willing to perjure himself does not return them if he owns them. Only under exceptional circumstances are they returned and taxed.[1]

The Commission elsewhere comments upon the escape of corporate securities:

> Corporations, trust companies, and other "artificial persons" have grown up, and the natural person, the man or the woman, may invest his or her "estate" in the shares or securities of such companies. Large estates are now extensively represented by paper evidences of ownership, by documents, which cover the tangible property, the title to which vests in the corporation or trust company, and also large amounts of intangible property. A man can easily conceal his estate or large parts of it, or can remove it from the jurisdiction of the taxing power. Moreover, as our Kentucky law treats "artificial persons" exactly as it does the natural person, there is a general feeling that there is likely to be double taxation if the natural person returns all his estate. This feeling leads to concealment and evasion, which is justified in the taxpayer's mind by perfectly good reasoning. For example: A man invests ten thousand dollars in railroad stock. He knows that the railroad is fully taxed upon its tangible and intangible property. He argues that his ten thousand dollars has been taxed when the railroad was taxed and that if he returns it as part of his own taxable property it will be taxed again, making two taxes upon the same property. This argument is correct. But our law imposes this double taxation. Hence the taxpayer evades the law if he can.[2]

A further reason for the evasion of taxation by intangibles is the inevitable discrimination in the valuation, and hence in the tax burden against intangibles. The Kentucky Commission puts the matter thus:

[1] *Op. cit.*, p. 71.

[2] *Ibid.*, pp. 44, 45.

Moreover, in practice, the law discriminates against money and credits when it is found. Money, in the nature of things, is assessed at 100 cents on the dollar; land at an average of 50 cents on the dollar. Under a strict interpretation of the law the State Board of Equalization must, if it raises the valuation of a county, raise the valuation of money as well as other property in that county, and we have the anomaly of money assessed at more than 100 cents on the dollar.[1]

There are, however, a few important exceptions to this sweeping charge of escape. They are usually of such a nature that we would wish that for them, too, escape was possible and effective. One class of intangibles which are unable to avoid listing consists of those which, on the tax day, are in the hands of persons who are either ignorant of the law, or are too honest to conceal their property from taxation by perjuring themselves, or who because of their position are unable to do so. It is safe to say that neither class of holders is very large, but the injustice in individual instances is grave. In such cases the general property tax is taxation, not according to ability to pay, but according to inability to escape.

There is finally a class of securities in such position that the assessor can have access to them, while those temporarily in charge of them have no personal pecuniary motive for evasion. The securities which insurance companies are compelled to deposit with the state treasury or other trustee, as a condition precedent to doing business in a state, are of this type, as are those of other corporations which must occasionally make such deposits. Estates of minors, widows, and others legally incompetent to manage their own estates furnish the bulk of taxed securities.

It would be difficult to state the conditions resulting from evasion as well as has been done in an opinion of the United States Circuit Court of Appeals.

The taxation of personal property has always and everywhere been a vexatious problem. Horses and cattle, wagons and carriages, the implements of husbandry and household furniture—all things, in fact, which are visible, and cannot be concealed, including therein shares in incorporated companies, which may be compelled by the law creating them to make returns—are within comparatively easy reach of the tax assessors. But the great mass of personal property, in which the wealth of a country is invested, consisting of

[1] *Ibid.*, p. 71.

bonds and other evidences of credit, which can be readily hidden, escape the eye of the assessor; and nothing is more conclusively settled by human experience than that it is impossible to collect taxes upon this kind of property within any reasonable approach to accuracy or equality, and this is not for want of long-sustained effort to accomplish it. There is a monotonous uniformity in the reports of the failures of every system attempted, however stringent may be the legislation, or however arbitrary or despotic may be the powers with which the assessors may be clothed. The heavy hand of the tax gatherer always falls upon the widow and the orphan, upon trustees and guardians, whose estates are required by law to be revealed to the courts of probate, and upon those whose consciences are unusually scrupulous, and who, having least experience in business, are least able to bear the burdens; while the most inadequate returns are invariably made by the rich, who are usually most ingenious in evasion, and most fertile in expedients to escape taxation. The result is that always and everywhere no appreciable part of such intangible property is reached by laws, however ingeniously framed or severely enforced. The heavy and ever increasing rate of taxation in our cities makes this result inevitable. Safe investments are rarely found which yield more than 4 per cent, and, the rate of taxation being generally from 2 to 3 per cent, it is not to be wondered at that there should be endeavor to escape a burden which takes more than half of their income. Evasion and downright perjury is the consequence.[1]

The natural inclination of the dishonest taxpayer is greatly encouraged by the public attitude toward tax evasion. The constitutions and statutes of nearly all the states make tax evasion a misdemeanor, a felony, or perjury. On paper the tax evader is treated very severely; but in practice punishments are rare. It is seldom that knowledge of tax evasion results in action; those living in glass houses cannot throw stones. Everywhere the story has been the same; the tax law could not be enforced in the face of an adverse public opinion.

It is obvious from the foregoing that the so-called general property tax is in fact no longer general. To the wide legal encroachments upon the uniformity rule described in earlier chapters, we must now add the informal and unofficial classification. It is not a matter for regret that intangibles are not taxed. The regrettable feature is that the tax laws require their taxation as general property and that some of them are so taxed. It is equally regrettable that the question of whether or not

[1] *National Bank of Baltimore* v. *City of Baltimore*, 40 C.C.A. 257, 258.

they shall be taxed depends upon the caprices of the assessor, or the fortuitous circumstances that determine whether the taxpayer can or will declare his taxable intangibles. It is not a matter for regret that some unproductive tangible personalty escapes, but the vagaries of assessment rules and practice, which in the absence or contravention of law must be arbitrary, are unfortunate. As for productive tangible personalty and real property, it should be possible to provide an assessment law and develop an assessment technique that will assure reasonably adequate assessment.

CHAPTER XII

UNDERVALUATION AND INEQUALITIES IN VALUATION

Among the mass of taxable property listed by the assessing officers and required to be taxed at a uniform rate within each taxing unit, there may still obtain a sort of extra-legal classification if the ratio of the assessed to the actual value is not uniform for all property within the district. Mere undervaluation does not produce such classification, if the low assessment ratio is uniform within the area of the district.

A curious argument, not intended to justify undervaluation, but merely to minimize its evil effects was made, perhaps in an unguarded moment, by C. C. Plehn, with particular reference to the general property tax in California:

> But uniform under-assessment has one redeeming feature. It tends to offset the inequality which arises from the proportional rate of the general property tax. Since ability increases more rapidly than property, or in other words the utility of each increment of property is less than that of the preceding increment, then it follows that the deduction of an equal percentage from the property of each taxpayer grants a greater relief to the poor man than to the rich man. . . . . The general property tax is degressive in some measure on account of the general practice of under-assessment, at least so far as real estate is concerned.[1]

On the contrary, if underassessment produces degression in the general property tax, it must be in connection with personal property rather than real property. With respect to personal property, under-assessment does tend to produce some degree of degression owing to the lump-sum exemption ordinarily allowed to each householder. Thus, if an exemption of $500 is allowed and the assessment ratio is 50 per cent, the immediate effect is to exempt twice as much personal property to each householder as would have been exempted had the assessment

[1] *The General Property Tax in California*, "Economic Studies of American Economic Association," Series III, Vol. II, No. I, 176–78.

ratio been 100 per cent. All those who have between $500 and $1,000 will be entirely exempt when the 50 per cent assessment ratio is used, while they would have been taxable on property worth up to $500 had the 100 per cent ratio been used. And those having property not far in excess of $1,000 will pay less, while those having large holdings will pay more, if the tax rates must be raised in order to raise the same revenue on a reduced basis.

Nor will there be classification, though there will be discrimination, if the deviations from the average assessment ratio are merely erratic, and without bias, as they would be were they the result of pure guesswork. But there will be both discrimination and classification if the assessment ratio runs higher or lower for one class or type of property than for the rest. It is obvious, as evidence will show, that there is enough guesswork in the assessment. But some of the variations exhibit a distinct bias.

Unfortunately the available data are confined almost entirely to assessments of real property. It may be possible to discover unofficial classification of tangible personal property. To do so, however, will require many field studies and analyses involving much effort and expense. If, therefore, the present analysis is confined largely to real property, this fact must not be misconstrued to imply that there are not discriminations and unofficial classifications in the assessment of personalty. On the contrary, the discriminations are probably greater for personal property than for real property. Perhaps the lack of the needed data is due to the declining importance of personalty in the assessment. Perhaps, and more likely, it is due to the greater difficulty in testing personalty assessments. For real property there is a market price or a sale price which can, with reservations and care, be used as a basis for comparison. In most of the states it is normal market value that is contemplated as the legal basis for the tax. But for personal property, even for merchandise, there is no such accepted basis.[1]

[1] The 1923 Committee on Tax Investigation of Oregon inquired as to the bases for assessing merchandise and stock in trade. In twelve counties reporting the following diverse bases were reported: Three used, respectively, 100 per cent, 85 per cent, and 80 per cent of the inventory; three used 50 per cent and one used 60 per cent of invoice price; one used 60 per cent of value; one used an unspecified percentage of wholesale price; one accepted the statement of the owner; and one merely allowed 25 per cent off for shopworn goods (*Report of the Committee on Tax Investiga-*

Except possibly for merchandise, second-hand value is the standard value for tangible personalty. Second-hand goods seldom have a definite market value.

I. MERE UNDERVALUATION

It is of course easier to obtain quantitative statements of undervaluation than of nonlisting. Every tax official produces records of information on values. Besides, other public bodies are engaged in compiling statistics; of these bodies the Bureau of the Census is the most important. Its data furnish the basis for a general view. Table 62 shows the estimated extent of undervaluation in the forty-eight states and the District of Columbia, between 1900 and 1922. These percentages should not be taken too seriously. They may, however, serve to suggest that the assessment ratios vary widely in the different states.

No state probably ever achieved a complete 100 per cent valuation. There are good reasons for suspicion where anything like a full value assessment is claimed. The estimates of the Bureau of the Census are derived from various sources, among them estimates made by administrative officials, who are charged with the task of obtaining a complete assessment. It is natural, therefore, for some of them to insist that such a valuation was actually achieved, when, in fact, this was far from true. It has been a common experience to have tax administrators indignantly reject the suggestion that their valuation was anything less than that legally required. New Hampshire and Wyoming in 1912 each claimed a literal 100 per cent valuation. In contrast, Illinois, in 1927, was given a much more modest ratio, 30 per cent for real estate and 25 per cent for personal property. Extensive data of sales records and other evidence support this low ratio. In 1927 a 100 per cent assessment was claimed for seventeen states.[1]

There is wide variation in the extent to which the valuation differs from estimated actual value. In several states in each of the four

tion, p. 204). All of these bases are clearly arbitrary in comparison with actual bona fide selling prices of real property sold in normal course of business.

[1] Cf. Table 63, *infra*, for a comparison of assessment ratios reported by the Bureau of the Census with those ascertained from actual sales records. Also various similar comparisons at proper points, *infra*.

selected years the assessed valuation fell to 30 per cent of the estimated actual value. Table 62 also shows that undervaluation is becoming less marked. If the median percentage is typical, the assessed valuation rose from 51.1 per cent of the estimated legal value in 1900 to 63.2 per

TABLE 62

DISTRIBUTION OF STATES ACCORDING TO PERCENTAGE OF ESTIMATED REQUIRED VALUE REPRESENTED BY THE ASSESSED VALUE, FOR SELECTED YEARS; ALSO MEDIAN PERCENTAGE FOR EACH YEAR*

PER CENT	NUMBER OF STATES				
	1927†	1922	1912	1904	1900
1–10	....	....	....	....	....
10.1–20	2	1	1	....	....
20.1–30	5	3	3	3	3
30.1–40	....	2	8	8	10
40.1–50	4	9	10	14	11
50.1–60	7	7	10	8	10
60.1–70	4	7	7	7	9
70.1–80	4	12	5	2	3
80.1–90	......	6	2	5	2
90.1–100	17	1	3	2	1
Over 100	....	1	....	....	....
Median percentage	70	63.2	54.0	49.7	51.1

* *Wealth, Public Debt, and Taxation: Estimated National Wealth, 1922*, p. 5. It should be remembered that a few states do not require a 100 per cent valuation. Allowance has been made for this fact, as accurately as could be done.

† From *Financial Statistics of States, 1927*, pp. 124–25. For state taxes on real property only. Five states had no tax on real property, and hence no estimate is made for them.

cent in 1922, and to 70 per cent in 1927. The deflation of land values since their post-war peak is doubtless in part reflected in the high 1927 ratios. To a large extent this increase may be attributed to the activities of state tax commissions, which have been more adequately endowed with power during the past few decades. That this diagnosis is correct is proved by studies of the changes in valuations in several states. Thus, in Kansas, the ratio of assessed to estimated true value rose from 22.9 per cent in 1904 to 72.4 per cent in 1912.[1] In that state

[1] This and the following similar percentages are based upon data of the Bureau of the Census, *Wealth, Debt and Taxation*, for the respective years.

the tax commission began its work in 1908. In several other states similar abrupt increases coincide with the advent of the tax commission. In other states the change has been less sudden, but often more persistent. Thus, in Wisconsin, the ratio of assessed to true value increased from 36.9 per cent in 1900 to 71.0 per cent in 1904, 75.0 per cent in 1912, and 85.3 per cent in 1922. In a number of states the changes in the ratio are erratic, suggesting, as is well known, unfavorable political meddling with the functions of the tax administrator. Thus, in Colorado, the ratio given rose from 30.8 per cent in 1900 to 40.4 per cent in 1904, then fell to 25.0 per cent in 1912, and rose again to 73.6 per cent in 1922.

Much more important than the level of the assessment ratio in any state are the deviations from the level. It will appear throughout this chapter that these deviations are numerous and large. It will also appear that to a large extent they are erratic, reflecting guesswork, incapacity, or purposeful discrimination against individuals in the assessment. With these discriminations we shall always have to contend. Their elimination can be partly achieved through improved assessment practices, which will be discussed in subsequent chapters.[1]

II. DISCRIMINATIONS AMONG LOCAL TAXING UNITS

Before any discrimination can be demonstrated, a test against which actual assessments may be checked is necessary. While various tests may be used, it is almost the universal practice to compare the sales value of properties with the assessed value. One difficulty is that deeds and other documents of transfer do not always record the price actually paid for the property. Another is that, because of the presence of forced sales, sales among relatives, and sales made by ignorant sellers or to ignorant buyers, the actual price may not reflect a fair market value. To select the bona fide sales is not easy. Yet, with all its shortcomings, the sales-value method of checking is the best available.[2] Consequently, a survey of a state tax system is hardly deemed complete unless it contains a comparison of sales values with assessed val-

[1] Chaps. xvi–xviii, *infra*.

[2] For a critical discussion of the merits of the sales-value check, in which it is found to be usable, when used with care, cf. H. D. Simpson, *Tax Racket and Tax Reform in Chicago*, chap. iii. See also R. W. Nelson and G. W. Mitchell, *Assessment of Real Estate in Iowa and Other Mid-Western States*, "Iowa Studies in Business," Study X (1931), pp. 7–27.

ues. In various states such as New York, Minnesota, Kansas, California, and others, the state tax commissions have accumulated considerable information about sales values. Analysis and interpretation of these data are going on; but there is still much to learn with respect to the real meaning of the discriminatory valuations shown by the sales records.

The early comparisons of assessed values with sales values apparently had no other object than to disclose that inequalities existed, which ought to be corrected. That the discriminations might show persistent tendencies, operating for or against property in certain localities or of certain descriptions, is a later idea. Thus the Maryland Tax Commission of 1912 secured and presented data of individual parcels of property in the several counties in the state.[1] But there was no attempt at analysis, although sale prices exceeded assessed values everywhere except in the city of Baltimore, and in several counties were twice as high. There appears also to have been no elaborate selection of bona fide sales. Prior to 1912, one rarely finds references to sale prices as a test of the adequacy of the assessment. Since then they have become a necessary part of almost all serious reports; there has been much refinement of the test and considerable progress in the interpretation of the results.

It may readily be shown that discrimination exists among counties and other local units. Table 63 shows differential undervaluation for a number of counties, cities, villages, and towns of five mid-western states. The differential assessment ratios are shown as averages, and the dispersions of individual ratios from the average of each group are also shown as percentages. The assessment ratios reported by the Bureau of the Census for Iowa, Nebraska, and Indiana are also given. They are seen to be considerably higher than the average assessment ratios found from actual sales records. There is no reason for doubting that the prevailing undervaluation, the wide dispersions of individual ratios, and the excessive estimates reported by the Bureau of the Census for these five states are not typical for the entire country.[2]

[1] *Report of the Commission for the Revision of the Taxation System of the State of Maryland and City of Baltimore, 1912*, pp. 73–168.

[2] For the full effect of the dispersions, the reader should consult the original study from which the data in Table 63 are taken.

Examples of inequalities in the assessments come to light in large numbers from the reassessments made or ordered by the state tax commissions. In some cases the successive assessments show improve-

TABLE 63

ASSESSMENT RATIOS OF REAL PROPERTY IN IOWA, MINNESOTA, NEBRASKA, WISCONSIN, AND INDIANA*

State and Unit	Year	Number of Units	Assessment Ratios on Basis of		Percentage Deviation on Basis of		Assessment Ratios Reported by Bureau of Census
			Number	Value	Number	Value	
Iowa:							
Counties†	1927	41	48.02	46.62	19.16	18.44	60
Cities	1927	8	52.16	47.53	32.06	25.66	
Towns	1927	14	50.29	46.23	32.73	28.03	
Wisconsin:							
Counties†	1927	12	92.48	89.71	16.35	15.08	Not computed
Cities	1927	3	72.48	67.37	25.12	17.31	
Villages	1927	11	83.05	80.91	18.91	16.83	
Minnesota:							
Counties†	1927	6	84.56	82.03	22.89	20.51	Not comparably computed
Cities	1927	6	83.22	79.85	25.97	23.10	
Nebraska:							
Counties†‡	1927	6	56.16	48.23	29.88	24.44	100
Counties†§	1927	6	61.09	56.56	23.42	21.48	
Cities‡	1927	4	53.57	52.52	28.43	25.93	
Cities§	1927	3	40.23	39.80	25.81	22.01	
Indiana:							
Cities and villages	1928	12	72.26	73.03	31.95	26.12	100

* From R. W. Nelson and G. W. Mitchell, *Assessment of Real Estate in Iowa and Other Mid-western States*, "Iowa Studies in Business," Study X (1931), pp. 150, 151. Last column figures from *Financial Statistics of States, 1927*, p. 124.

† Rural property, outside of cities, villages, or towns.

‡ Units having full-time county assessors.

§ Units not having full-time county assessors.

ment toward a uniform, though not reaching a full, valuation. Table 64 shows the degree of discrepancy among counties in Michigan in 1906 and the noticeable improvement in succeeding years. The average ratio, approximately 80 per cent, has not changed, but the range between the extreme ratios has been very much narrowed.

That discrepancies of a similar nature exist within counties, among

the smaller tax jurisdictions, and among individual taxpayers, is suggested by the comparison here presented of assessed average values per acre of Kansas lands separated only by township lines. It is plain

TABLE 64

DISTRIBUTION OF COUNTIES ACCORDING TO RATIO OF EQUALIZED TO FULL VALUE IN MICHIGAN FOR SELECTED YEARS*

PERCENTAGE GROUPS	NUMBER OF COUNTIES			
	1906	1911	1914	1916
55–59.9	1	1	....	....
60–64.9	2	5	....	....
65–69.9	7	7	....	1
70–74.9	8	7	1	5
75–79.9	8	42	4	31
80–84.9	13	15	4	46
85–89.9	15	5	70	1
90–94.9	16	....	3	......
95 and above.......	12	....	1	....
Number of counties.....	82	82	83	84

* Compiled from data in the reports of the State Board of Equalization. Quoted from H. L. Lutz, *The State Tax Commission*, p. 299.

that the average ratio is much too low, relatively, in one township. The mere separation of adjoining lands by an imaginary line, in the absence of other determining factors, could not account for such dif-

TABLE 65

AVERAGE ASSESSED VALUES PER ACRE OF LAND SEPARATED BY TOWNSHIP LINES, IN CERTAIN TOWNSHIPS IN KANSAS*

(In Dollars)

	137	149	129	116	96	70	91	82	70	76	73	71
Township line												
	78	75	76	62	52	44	45	47	44	44	40	53

* *Report of Tax Commission to the Legislature, 1913*, pp. 35–45.

ferences as shown. Doubtless since 1913 improvement has taken place, but the degree may easily be overestimated. Inequalities of this type still exist.

Discrimination among counties results in a nonproportional dis-

tribution of the state tax among counties; this inequality is much greater than the analysis up to this point indicates. As there are wide variations among the counties, so are there wide deviations from the county average within each county for the several parcels of property. How wide these deviations may be is indicated in Table 66, which shows the high, low, median, and average ratios of assessed valuation to sale prices of 1,355 parcels of real estate in West Virginia, by counties. While the average for the state was 65.2 per cent, the high county average was 122.1 per cent in Tucker County, the low county average was 32.1 per cent in Wyoming County. But in Brooke County a lot that was assessed at $600 sold for $40, which means a 1500 per cent assessment ratio; and another, assessed at $2,000 sold for $19,000, which means an assessment ratio of 10.53 per cent. In Clay County a tract that sold for $1,800 was assessed at only $10, or .55 of 1 per cent of the sale price.

The ratio for each county, for the one with the highest as well as for that with the lowest ratio, is itself an average of numerous items of property, from which the individual items deviate in both directions just as the individual county ratios deviate from the average for the state. This means that the most underassessed item in the most underassessed county, and, with less probability in any other county, is probably underassessed to a far greater degree than the average for that county. Similarly, the item most overassessed in the most overassessed county, and, with less probability, in any other county, is overassessed to a much greater degree than the ratio for that county. The result is that in each county, and especially in the overassessed counties, there are taxpayers who contribute an unfairly large part of the state tax, as well as of the local tax. Also, in each county, and especially in underassessed counties, a number of taxpayers pay a low share of the state tax, as well as of the local tax.

These inequalities may be demonstrated readily by using the data for any county in Table 66, but inasmuch as Tucker County had the highest assessment ratio, it may be used to advantage. The state tax paid, ignoring delinquencies, which would presumably occur in any case, based on the valuation of $9,710,059 and on the state rate for 1929 of 13 cents per $100, amounted to $12,623. Had Tucker County properly been assessed at the average ratio for the state, of 65.2 per

TABLE 66

RATIOS OF ASSESSMENTS TO SALE PRICES OF ALL CLASSES OF REAL ESTATE IN WEST VIRGINIA COUNTIES, 1929*

County	No. of Cases	Assessment Ratios in Percentages of Sale Prices			
		High	Low	Median	Average
Barbour	20	200.0	3.3	62.5	80.5
Berkeley	24	132.5	7.5	48.8	36.3
Boone	30	955.0	18.0	60.6	72.2
Braxton	27	180.0	1.3	68.0	68.2
Brooke	32	1500.0	8.1	66.7	52.1
Cabell	24	705.3	48.0	79.6	77.0
Calhoun	21	115.0	26.7	67.5	83.1
Clay	26	200.0	0.6	35.0	36.0
Doddridge	23	180.3	33.1	89.0	83.1
Fayette	25	280.0	16.7	74.2	60.8
Gilmer	20	596.7	3.0	66.5	52.2
Grant	33	172.7	5.0	48.0	58.5
Greenbrier	24	190.0	3.6	43.5	52.3
Hampshire	30	107.7	2.2	47.7	54.4
Hancock	18	233.3	12.5	91.0	65.6
Hardy	25	90.9	10.1	46.2	47.9
Harrison	34	200.0	33.3	66.7	71.6
Jackson	16	277.8	25.0	46.5	43.9
Jefferson	21	457.1	12.5	50.5	66.5
Kanawha	23	254.6	15.0	60.0	59.5
Lewis	18	332.0	20.0	67.3	59.7
Lincoln	24	480.0	17.2	66.2	64.5
Logan	28	300.0	5.0	52.5	64.6
McDowell	26	300.0	4.0	47.5	85.9
Marion	27	500.0	15.9	82.9	104.4
Marshall	19	466.7	19.8	85.0	64.1
Mason	24	220.0	24.0	62.7	57.1
Mercer	25	300.0	10.9	50.0	50.2
Mineral	18	233.3	26.7	67.5	74.9
Mingo	23	430.0	8.3	66.7	46.6
Monongalia	32	500.0	4.2	42.3	64.7
Monroe	24	250.0	16.7	65.5	69.0
Morgan	22	540.0	41.7	72.8	83.2
Nicholas	28	225.0	11.3	65.7	72.9
Ohio	28	220.8	16.8	75.0	54.6
Pendleton	26	213.3	2.9	40.7	44.3

* Blakey, *Report on Taxation in West Virginia*, pp. 107–28. A few sales made in 1928 and 1930 are used, though nearly all the sales records used are of 1929 sales.

TABLE 66—*Continued*

County	No. of Cases	Assessment Ratios in Percentages of Sale Prices			
		High	Low	Median	Average
Pleasants	19	185.0	44.4	90.0	67.3
Pocahontas	29	400.0	10.0	60.0	68.2
Preston	30	300.0	25.3	74.3	76.4
Putnam	21	233.0	33.3	66.7	67.9
Raleigh	23	247.1	4.0	61.7	53.2
Randolph	19	508.9	21.0	90.9	96.2
Ritchie	22	233.3	14.7	93.1	93.2
Roane	19	111.5	5.0	50.0	48.4
Summers	30	440.0	2.0	88.3	82.4
Taylor	30	216.9	26.0	71.4	71.9
Tucker	26	250.0	66.7	114.3	122.1
Tyler	23	269.1	20.0	85.0	87.1
Upshur	29	313.3	3.3	65.6	70.1
Wayne	26	295.0	11.7	82.3	88.7
Webster	32	120.0	11.4	69.2	58.3
Wetzel	25	140.0	30.6	72.2	69.5
Wirt	21	208.7	38.4	83.3	91.5
Wood	18	165.9	7.8	66.9	64.5
Wyoming	25	92.0	8.0	40.0	32.1
Total	1,355	1500.0	0.6	....	65.2

cent, instead of 122.2 per cent, the state tax on Tucker County property would have been only 53.4 per cent of what it was, namely $6,741, or $5,882 less than it was.

One parcel of property, according to Table 66, was assessed at 250 per cent of its sale value. On each $1,000 of true value the owner therefore would have paid in state taxes, had his property been assessed at the state average, $1.30 times .652, or 86 cents. Through overassessment of his property, he paid 2.5 times that amount, or $2.15 , or $1.29 too much. But the discrimination against this property owner in respect to local taxes is much greater. The local rate, for all purposes except the state tax, was $2.634 on each $100. For local purposes he would pay on each $1,000 full value of his property $26.34 times 1.222,[1]

[1] It is assumed that if the assessment ratio were reduced to 100, the rates would have to be raised proportionately to raise the required revenue.

or $32.19. Through overassessment he paid, however, 2.5 times that amount or $80.47, which was $58.28 too much. Thus, on $1,000 of property, at true value, the state tax mulcts this overassessed taxpayer to the amount of $1.29 for the double reason that, first, his county is overassessed in comparison with the rest of the state, and second, that his property is overassessed in proportion to the rest of the property in the county. On the same property the local tax mulcts this taxpayer to the amount of $58.28, for the sole reason that his property is overassessed relative to the rest of the property in the county. Thus the discrimination in the local tax is about 45 times as great as in the state tax.

And the case is not exactly extreme. For in twenty-five of the fifty-five counties reported on, the high assessment ratio was higher than in Tucker County, in one case six times as high. Tucker County had the highest average ratio for any county; this had the effect of aggravating the discrimination in the state tax and lessening that in the local tax. In Brooke County, for example, where one parcel was assessed at 1,500 per cent of the sale value, where the average assessment ratio was 52.1 per cent, and the total local rate was $2.464 on $100, this overassessed taxpayer would pay, on each $1,000 of property, at true value, 86 cents to the state, as in Tucker County above, had the assessment ratio of his property been 65.2 per cent, the state average. But by reason of being overassessed he paid 15 times that amount, or $12.90, which was $12.04 too much. But in local taxes, on each $1,000 of true value, he would pay $24.64 times .521 times 15, or $192.46, which is $179.62 too much. Here the local tax mulcts the overassessed taxpayer to the amount of $179.62, or nearly 15 times as much as the state tax.

One may readily lose one's self in an inextricable snarl of these relationships. The inequalities in the assessment ratios do result in some inequalities in the state tax; but they are very much less than those that result in the local taxes. How stupid it is to study with a microscope the mote of inequality in the state tax and to ignore the beam of inequality in the local tax! How irrational it is to argue for segregation of state sources in order to save the expense of state equalization and state supervision, and to permit chaotic local assessments, such as are shown by the evidence to exist everywhere!

Variations in the assessment ratios among individual parcels are well shown in Table 67, which presents the ratios of assessed to true value, as represented by the sales records of a number of properties in Cook County, Illinois.

TABLE 67

RATIOS OF APPRAISED TO SALES VALUE OF INDIVIDUAL PARCELS OF PROPERTY IN COOK COUNTY, ILLINOIS, 1923 AND 1926. NUMBER OF PARCELS AND PERCENTAGE OF PROPERTIES IN EACH RATIO GROUP*

PERCENTAGE OF APPRAISED TO SALES VALUE	1923		1926	
	Number of Properties	Percentage in Group	Number of Properties	Percentage in Group
1–10	474	8.7	441	7.2
11–20	772	14.2	1,071	17.5
21–30	1,331	24.6	1,930	31.7
31–40	1,362	25.1	1,449	23.7
41–50	706	13.1	655	10.7
51–60	331	6.2	255	4.2
61–70	188	3.4	135	2.2
71–80	121	2.2	76	1.3
81–90	77	1.4	50	0.8
91–100	54	1.0	30	.5
Over 100	5	0.1	13	0.2
Total	5,421	100.0	6,105	100.0

* *Report of Joint Commission on Real Estate Valuation of Cook County*, pp. 20, 21.

III. DISCRIMINATION LEADING TO REGRESSIVITY

It did not take students of property taxation long to discover that there is a persistent tendency for assessments to discriminate in favor of properties of high value and against properties of low value. Though discriminations of this type are easily proved, their meaning was not at first, and still is not, fully understood. One of the earliest of these analyses was presented in 1916 by the Special Tax Commission of Indiana. Table 68 is adapted from a paper presented by Professor John B. Phillips.

One of the most elaborate analyses of the relationship between assessed value and sale price was made by Eric Englund, covering for a period of ten years Kansas urban and rural property. The results, as

summarized for farm real estate in Table 69, show that the regressive feature of the assessment is persistent. Because of its complicated and

TABLE 68

RATIO OF ASSESSED TO TRUE VALUE OF LAND AND LOTS, IN THIRTY-SIX INDIANA COUNTIES*

Value	Number of Sales	Ratio of Assessed to True Value (per Cent)
Under $500..........	1,834	47.49
500–1,000..........	1,581	46.44
1,000–2,500	2,698	42.89
2,500–5,000..........	1,505	38.44
5,000–10,000..........	734	37.08
10,000–25,000........	361	33.99
25,000–50,000........	47	31.83
50,000–100,000.......	12	26.81
Total............	8,772	....

* "Problems of Taxation in Indiana," *Proceedings*, XII (1919), 89 ff.

TABLE 69

ASSESSED VALUATION OF 10,307 PARCELS OF FARM REAL ESTATE IN PERCENTAGE OF SALE PRICE, BY VALUE GROUPS AND BY YEARS, AS INDICATED, 1913–22*

(See Text for Explanation of Group Limits)

YEAR OR PERIOD	ASSESSMENT RATIOS BY GROUPS ACCORDING TO SALE PRICE								
	All	I	II	III	IV	V	VI	VII	VIII
1913..........	71.4	86.2	84.0	76.3	74.0	70.2	67.3	65.3	62.9
1914..........	68.6	87.0	77.8	74.0	73.9	69.4	73.0	67.3	56.5
1915....... ..	69.2	82.8	77.5	71.1	68.3	70.1	69.1	72.3	61.0
1916..........	70.6	84.6	79.6	76.6	68.5	68.0	68.7	67.7	63.1
1917..........	66.1	93.1	77.2	72.7	68.5	64.5	67.1	63.9	57.2
1918..........	70.1	84.2	78.0	75.6	73.6	72.6	68.8	67.5	65.1
1919..........	59.2	81.3	69.3	67.6	65.8	63.1	61.0	56.8	53.8
1920..........	61.7	86.3	65.7	66.8	67.2	62.1	61.8	61.7	59.2
1921..........	63.8	91.1	73.9	79.4	71.4	64.4	63.0	55.3	59.1
1922..........	65.8	84.3	77.7	75.2	75.8	63.5	64.3	61.8	59.3
1913–22.......	65.6	85.7	76.7	72.9	70.0	66.4	65.3	62.3	58.7
1913–15.......	68.1	85.9	79.1	74.7	72.0	68.0	67.3	63.4	59.6
1916–20.......	64.1	85.6	74.5	71.6	68.5	65.3	64.3	61.7	58.3

* Adapted from Eric Englund, *Assessment and Equalization of Farm and City Real Estate in Kansas*, Kansas State Agricultural College Bulletin 232, p. 26. Percentages for periods are weighted averages.

composite nature, the table requires some explanation. The economic conditions, particularly farm values, varied so much from section to section of the state that to adopt uniform class limits for all sections would throw most of the properties of the low-value section of the state into the lower classes of the groupings, and throw most of the properties of the high-value section into the upper classes. Hence the counties studied were divided into classes A, B, C, D, and E, on the basis of the distribution of the sale prices of the properties therein. The group limits were hence not uniform for all classes. Thus, in Class B, the lower limits of each of the eight groups were 0, $3,000, $5,000, $7,000, $9,000, $11,000, $13,000, and $15,000, respectively; while in Class C the corresponding lower limits were 0, $1,000, $2,000, $3,000, $4,000, $5,000, $6,000, and $7,000, respectively. In Group I of the table are combined Groups I of all the classes; in Group II of the table, Groups II of all the classes; and so on.

The tendency to relative overvaluation of the less valuable parcels persisted with approximately equal force from year to year. The average assessment ratios appeared to decline as the years passed, but this was partly due to the fact that the war boom in land values outran assessments, which are not adjusted every year, and not entirely, if at all, to less efficient assessment in the later years. The corresponding relationships for urban property were of the same character and were equally striking.[1]

There may be at least two reasons why the more valuable parcels are relatively underassessed and the less valuable parcels overassessed. The larger value of the more valuable parcel may be due to the larger area, or to the larger value per acre. A study by G. B. Clarke, covering farm properties in all sections of Minnesota, indicates that the assessor is not influenced appreciably by the area factor but is strongly influenced by the value-per-acre factor. Clarke found a marked correlation between the value per acre and the ratio of assessed to sale value. Farms sold for between $50 and $75 per acre were assessed at 124.6 per cent of sale value; those sold for $50 per acre or less were assessed at 110.9 per cent of sale value; while those sold for $200 or over per acre were assessed at only 67.1 per cent of sale value. He found a smaller

[1] Eric Englund, *Assessment and Equalization of Farm and City Real Estate in Kansas*, Kansas State Agricultural College Bulletin 232, p. 26.

degree of correlation between the sale value per farm and the ratio of assessed to true value. He also found, as is shown in Table 70, no appreciable correlation between the size and the assessment ratio. It is seen that 132 farms, sold for $20,000 or more per farm, were assessed at 77.7 per cent of sale value, while farms sold for $5,000 or less per farm were assessed at 101.6 per cent of sale price. This is an appreciable cor-

TABLE 70

AVERAGE RATIO OF ASSESSED VALUE TO SALE VALUE OF 577 FARMS IN SOUTHEASTERN MINNESOTA, GROUPED ACCORDING TO (1) SALE VALUE PER FARM, (2) SIZE OF FARM, AND (3) VALUE PER ACRE, 1924–27*

Group Number	Grouped According to Sale Value of Farm			Grouped According to Size of Farm			Grouped According to Value per Acre		
	Sale Value per Farm, Dollars	No. of Farms	Average Ratio of Assessed to Sale Value	Size of Farm, Acres	No. of Farms	Average Ratio of Assessed to Sale Value	Value per Acre, Dollars	No. of Farms	Average Ratio of Assessed to Sale Value (per Cent)
1	0–5,000	46	101.6	0–40	14	85.5	Up to 50	29	110.9
2	5,000–10,000	85	96.6	40–80	84	92.5	50–75	67	124.6
3	10,000–15,000	128	89.2	80–120	58	92.4	75–100	108	103.7
4	15,000–20,000	186	81.1	120–160	213	91.9	100–125	143	90.5
5	Over 20,000	132	77.7	160–200	153	97.3	125–150	91	83.6
6	....	......	......	Over 200	55	85.0	150–200	97	73.5
7	....	......	......	......	......	......	Over 200	42	67.1
Total	....	577	92.3	......	577	92.3	......	577	92.3

* From G. B. Clarke, "The Assessment System of Minnesota in Its Relation to Equality of Taxation," *Journal of Farm Economics*, XII (1930), 573–87.

relation, but a good deal less than that between the value per acre and the assessment ratio. The correlation between the size of the farm and the assessment ratio is not striking, but it appears that very small and very large farms are favored, taking assessment ratios of 85.5 per cent and 85.0 per cent, respectively, while the average ratio for all the farms was 92.3 per cent.

Table 70 covers data for the southeastern section of the state only; but Mr. Clarke found the same relationships to apply throughout the state.[1] He also found them to apply, though less definitely, to urban

[1] "The Assessment System of Minnesota in Its Relation to Equality of Taxation," *Journal of Farm Economics*, XII (1930), 578.

property. If this is true, and it appears to be a plausible explanation, then the prevailing propensity of the assessor for regressive assessments may be nothing but an old and familiar practice, appearing in a different manifestation. It has been a natural practice for the assessor, individually or through tacit or explicit agreement, to fix a standard value per unit of property in his district—so much per acre of land, so much per cubic foot of a building, so much for each horse, and so on. He appears to be tolerably capable of ascertaining the units in a parcel of property, but considerably at sea when making allowance for deviation in quality, better or worse, from the standard-quality unit. With land, the effect of this preference accorded to the best, and the discrimination against the poorest, must be unfortunate. It operates to depress the value of marginal or near-marginal land, and to enhance the value of the best grades.

IV. URBAN AND RURAL PROPERTY

One of the assertions most frequently heard is that urban property is overassessed relative to rural property. But assertions of an opposite nature are also often made.[1] Table 71 shows not only the regressive character of the assessments in Virginia in 1914, but also that urban property was, on the average, assessed at a higher percentage of true value. The ratio for the counties was 33.5 per cent, for the cities it was 53.1 per cent. It appears, moreover, that the deviations from the average were considerably narrower for urban property. In other words, not only was urban property assessed a higher percentage of true value, but it was also more equitably and more uniformly assessed.

On the other hand, data secured by the Illinois Agricultural Association covering the years 1924–28 indicate that, in Illinois, the assessment ratio was higher for farm lands than for town and city real estate. As shown in Table 72, the ratio for farm lands was 38.52 per cent compared with 35.64 per cent for town and city lots, and 37.39 per cent for both classes. Only the counties showing the extremes and the averages are given in the table.

In Table 73 is presented a comparison of the ten-year average assessment ratios for the eight groups of farm real estate of Kansas with similar assessment ratios for city real estate in sixteen counties. The

[1] The data in Table 63, *supra*, would indicate higher assessment ratios for urban land in Iowa, but lower ratios in Wisconsin, Minnesota, and Nebraska.

same grouping is used as in Table 69. It will be seen that the ratios for city real estate run about 10 per cent higher throughout the eight groups.

TABLE 71

ASSESSMENT RATIOS OF CITIES AND COUNTIES, VIRGINIA, 1914*

Value of Property	Ratio, as Given		Ratio, Reduced to a 100 per Cent Basis	
	Counties	Cities	Counties	Cities
Under $500	46.7	59.8	139.4	112.6
500–1,000	39.0	58.2	119.4	109.6
1,000–2,500	36.4	56.5	108.7	106.4
2,500–5,000	32.7	56.0	97.6	105.5
5,000–10,000	31.1	53.0	92.8	99.8
Over 10,000	28.1	48.2	83.9	90.8
Total	33.5	53.1	100.0	100.0

* A. E. James, "Measures of Relative Tax Burdens," *Publications of the American Statistical Association*, XV, 86–92.

TABLE 72

RATIO OF ASSESSED TO SALES VALUES OF REAL ESTATE IN SELECTED ILLINOIS COUNTIES, 1924–28*

County	Percentages Assessed Were of Sales Values		
	Farm Lands	Town and City Lots	Weighted Average
Johnson†	60	61	60
Clay‡	62	33	56
Saline§	31	23	29
Champaign‖	29	29	29
State	38.52	35.64	37.39

* From analysis made by Illinois Agricultural Association. Taken from *Tenth Annual Report Illinois Tax Commission*, pp. 75–79. Only four counties are here shown. The original investigation covered most of the counties in the state.

† Highest average for town and city lots. Also highest weighted average for both farm lands and town and city lots.

‡ Highest average for farm lands. Also widest spread between farm lands and town and city lots.

§ Lowest average for town and city lots.

‖ Lowest average for farm lands. Also tied with Saline for lowest weighted average for both farm lands and town and city lots.

The relatively greater uniformity of city property assessments in Kansas during the ten-year period may be seen from Table 74, which shows the coefficients of dispersion for all the parcels studied. In all but two of the ten years the deviation was greater, sometimes considerably greater, in the farm real estate ratios.

TABLE 73

COMPARISON OF ASSESSMENT RATIOS OF FARM AND CITY REAL ESTATE IN KANSAS, 1913–22, INCLUSIVE*

Type of Real Estate	Assessment Ratios by Value Groups† (per Cent)								
	All Groups	I	II	III	IV	V	VI	VII	VIII
Farm‡........	65.6	85.7	76.7	72.9	70.0	66.4	65.3	62.3	58.7
City§.........	73.3	97.0	89.0	82.9	80.5	76.5	74.5	70.9	69.1

* Englund, *Assessment and Equalization of Farm and City Real Estate in Kansas*, pp. 26 ff.

† For explanation of grouping, see text preceding Table 69, *supra*.

‡ Fifteen counties.

§ Sixteen counties.

TABLE 74

AVERAGE COEFFICIENT OF DISPERSION OF RATIO OF ASSESSMENT TO SALE PRICE (1) OF FARM REAL ESTATE IN TEN COUNTIES AND (2) CITY REAL ESTATE IN SIX CITIES, IN KANSAS, 1913–22*

Year	Ten Counties†	Six Cities‡
1913..............	.248	.164
1914..............	.220	.204
1915..............	.207	.172
1916..............	.222	.194
1917..............	.224	.219
1918..............	.190	.164
1919..............	.223	.220
1920..............	.217	.227
1921..............	.216	.229
1922..............	.238	.179

* Englund, *Assessment and Equalization of Farm and City Real Estate in Kansas*, pp. 56, 57. The coefficient of dispersion is the average deviation divided by the average ratio of assessment to sale price.

† Bourbon, Chase, Cherokee, Comanche, Decatur, Meade, Leavenworth, Reno, Rooks, Shawnee.

‡ Hutchinson, Leavenworth, Manhattan, Fort Scott, Topeka, Winfield.

Precisely to what extent these Kansas owners of property more valuable than the average are relieved of their taxes, and others thereby mulcted, is not easily said. According to Englund's computation,[1] however, these owners were, during the period of 1913–22, relieved of 7.88 per cent of their taxes on farm real estate and of 5.25 per cent on city real estate; while the burden on the less valuable properties was increased by 9.23 per cent on farm real estate, and by 9.17 per cent on

TABLE 75

EXCESS TAX, OR TAX RELIEF, ON ACCOUNT OF DEVIATIONS IN THE ASSESSMENT RATIO FROM THE AVERAGE RATIO IN KANSAS, 1913–22*

Value Group	Farm Real Estate		City Real Estate	
	Per $1,000 of Sale Price	Per Parcel of Property	Per $1,000 of Sale Price	Per Parcel of Property
I	$3.029	$ 3.70	$8.644	$1.52
II	1.662	4.27	5.744	2.78
III	1.114	4.45	3.515	2.88
IV	0.665	3.66	2.624	2.82
V	0.112	0.77	1.666	1.45
VI	−0.044	− 0.38	0.439	0.75
VII	−0.497	− 4.83	−0.865	−2.16
VIII	−1.042	−17.67	−1.549	−9.22

* Englund, *Assessment and Equalization of Farm and City Real Estate in Kansas*, pp. 31, 32. The minus signs indicate that the tax was less than proportional. In the groups showing no signs, the tax was greater than proportional.

city real estate. Table 75 indicates these excess payments, in relation to the purchase price of the property, and the amount of the excess per parcel of each group of properties. It also indicates the extent of the escape from tax payment, similarly stated. This manner of presentation serves well to bring out the facts that the discrimination operates severely against the least valuable properties, and that disproportionate relief is accorded the owners of the most valuable properties.

V. DISCRIMINATIONS AMONG PROPERTIES OF DIFFERENT INDUSTRIES

Numerous attempts have been made to prove that this or that industry is overtaxed or undertaxed. Many such complaints have been

[1] *Op. cit.*, p. 30.

made by interested taxpayers and are thus open to the suspicion that the evidence may have been selected for the purpose of proving the case, regardless of the facts. It is even true that the findings of official committees or commissions have at times been unduly concerned with proving certain industries to be overtaxed. However, trustworthy evidence is not entirely lacking.

The practice of sectional discrimination probably occurs in all states. Of the assessment in Virginia for the year 1914, after a statistical analysis had been made, it was said that "speaking generally, the cities were assessed more nearly at the true value than the country; Tidewater more than the interior; the Southwest mountain country was assessed the lowest of all."[1] The inequalities ranged from an average ratio of 12.5 per cent in Carroll County to 76.5 per cent in Fredericksburg City. Lots in counties were assessed on the average at 38.5 per cent and lands in the same counties at 30.2 per cent. Experts in Indiana secured records of transfers in thirty-six counties, checked the assessed valuations, and reported that the average assessed value of lands and lots in these thirty-six counties was 37.79 per cent of the true value in 1916:

The counties in which lands and lots were assessed at the lowest percentage of the true value, were Allen (32.7), Carroll, (30.18), La Grange (31.39), Lake (25.15), Miami (29.01), Porter (31.53), Starke (22.53), Tipton (32.04). These counties are all in the northern part of the state.

Counties in which lands and lots were assessed at the highest percentages of true value were Bartholomew (45.02), Clark (58.96), Crawford (58.02), Floyd (72.72), Harrison (44.81), Johnson (50.39), Ohio (45.50), Scott (41.90), Switzerland (44.78), Vanderburgh (59.49). These counties are in the southern part of the state. All but two border on the Ohio River.

It has been pointed out that one reason for this underassessment in the northern half of the state may be due to the location in this region of public utility corporations, especially railroads, to a far greater degree than in the southern, and especially the river counties. The great railroad systems, stretching from Chicago to the Atlantic seaboard, pass through northern Indiana. The valuation of these railroads, fixed by the state board of tax commissioners, is apportioned to the counties and townships on a mileage basis. In some of these counties approximately one-half of all the taxes is paid

[1] James, "Measures of Relative Tax Burdens," *Publications of the American Statistical Association*, XV, 82.

by railroads and utilities assessed by the state board. It is said that in such cases, the township assessor is tempted to assess his neighbor's property at a low figure, in an effort to get the burden onto the railroads. In the southern counties, where the precentage of the taxes paid by the railroads is a very much smaller part of the total, township assessors are not exposed to the same temptation.[1]

Table 76 shows the discrepancies in the assessments of different classes of property of two Wisconsin counties; it also shows discrimination in favor of the property of Racine County, which is chiefly industrial in character, as against the predominantly rural property of Monroe County. In both cases the property of farmers is discriminated against, while that of manufacturers is favored. The worst plight seems to be that of the property which belongs to persons having no special occupations. In Racine County, where the average ratio for all the property investigated was 28.86 per cent, that of manufacturers was 21.84 per cent, and that of persons belonging to no particular occupation was 75.29 per cent.

TABLE 76

RATIO OF ASSESSED TO TRUE VALUATION OF PERSONAL PROPERTY, CLASSIFIED BY OCCUPATIONAL GROUPS, IN RACINE AND MONROE COUNTIES, WISCONSIN, 1907*

Occupational Groups	Racine County		Monroe County	
	Number Inspected	Ratio	Number Inspected	Ratio
Total	1,357	28.86	882	48.51
Farmers	697	59.20	699	66.90
Merchants	506	32.38	158	58.39
Manufacturers	83	21.84	14	28.32
Trades and professions	37	35.90	5	59.58
Public service	18	34.62	6	53.34
No occupation	16	75.29	....	....

* Adapted from H. L. Lutz, *The State Tax Commission*, p. 255.

Table 77 is based upon the study made for the Cook County commis-

[1] Phillips, "Problems of Taxation in Indiana," *Proceedings*, XII, 89 ff. On the basis of data presented by the Special Tax Commission of 1916.

sion cited above. The properties are classified according to their use and type. The year 1923 was that of a regular quadrennial assessment. The next assessment was made in 1927. The only striking change was the increase in the assessment ratio of vacant land. The 1927 assessment never became effective on account of the order by the state tax commission for a reassessment.[1] As will be seen, the extreme assess-

TABLE 77

ASSESSMENT RATIOS OF CHICAGO FOR 1923, 1927, AND 1928, BY CLASSES OF PROPERTIES*

Class of Property	1923		1927		Reassessment, 1928
	Number of Properties	Assessment Ratio (per Cent)	Number of Properties	Assessment Ratio (per Cent)	(per Cent)
Office buildings	23	59.9	22	56.7	34 99
Industrial	127	43.5	129	43.8	24.2
Commercial—wholesale and retail	496	39.9	451	39.0	26.8
Miscellaneous and unclassified	318	38.7	254	35.3	30.6
Apartment buildings	1,368	37.4	1,581	34.9	27.0
Hotels, theaters, and amusements	32	37.2	31	33.1	34.96
Combination business and residence	562	34.6	564	34.7	27.0
Two-flats and duplexes	610	32.1	848	33.1	27.8
Single-family residence	1,039	31.6	1,295	32.6	28.2
Vacant land	854	19.7	842	35.2	35.0
Total	5,429	35.4	6,017	35.9	27.8

* Simpson, *Tax Racket and Tax Reform in Chicago*, pp. 38–40, 50–55, 71–74, 174–76.

ment ratio of vacant land in 1923 had already been remedied in 1927. While the other extreme ratio of 59.9 per cent for office buildings in 1923 was reduced to 34.99 per cent in 1928, the reassessment appears to have remedied the inequalities only in part, and in some cases to have widened the discrepancies.

Railroad and other public utility property is usually valued at a different level, higher or lower from that of other property, partly because of the fact that such property is now generally assessed by the state tax commission or some central state body. The valuation thus

[1] Cf. chaps. xiv and xv, *infra*.

established, whether at a higher or a lower level than for other property, must necessarily be at the same level throughout the state. Since assessment ratios of the counties and smaller divisions differ among themselves, for other property, the percentage at which such centrally assessed property is valued must necessarily differ from that of other property in most of the counties. If we may judge from the number of cases of this kind that have found their way into the courts, we must conclude that there is a great deal of discrimination of this sort, and also a great deal of difficulty involved in obtaining relief.

It is obviously illegal, where the uniformity rule and a 100 per cent valuation requirement prevail, to undervalue any property. That being done, however, discrimination should be eliminated by the county or state equalizing agencies. The courts have often refused to assume jurisdiction, unless every administrative remedy has been exhausted. "The findings of a board of equalization must be so manifestly wrong that reasonable minds could not differ thereon before this court will disturb them."[1] This is, in substance, the position the courts generally assume. The discrimination must not only be conspicuous but it must be proved to be intentional and continued. Mere errors of judgment do not establish a case; for the courts necessarily admit that complete uniformity is unattainable and that a certain amount of discrimination must necessarily obtain. To establish a case so securely as is required is obviously difficult and costly; and presumably many concerns endure discrimination rather than bring suit, especially since such suits do not increase the popularity of the plaintiff.

Moreover, it has not always been sufficient to prove material, intentional, and continued discrimination. The supreme court of Nebraska refused to assume jurisdiction in the case of *Lincoln Telephone and Telegraph Company* v. *Johnson County*.[2] The company petitioned for a reduction of its assessment to 75 per cent of actual value, that being the percentage at which general property was assessed while the plaintiff's property was assessed at full value. But the court sustained the lower courts in holding that the proper remedy was not to reduce the valuation of the plaintiff's property, but to raise all the undervalued properties to the full valuation required by the constitution of the state. To lower the valuation as prayed for, would be in plain viola-

[1] *Woods* v. *Lincoln Gas and Electric Light Co.*, 74 Nebr. 931.

[2] 166 N.W. 627.

tion of the constitution, while to raise the undervalued properties would be exactly what the constitution required. To such a violation the court would not make itself a party.

Legal and logical as this decision may be, it left the plaintiff without a remedy; for it is impossible, especially at the instigation of the plaintiff, to increase the assessment on all other items of property. While this was not the rule in most of the states, it continued to be held in Nebraska until upset by a recent decision of the United States Supreme Court.[1] The assessor valued that part of a Missouri River bridge which was located in Nebraska at $600,000. Upon complaint of excessive valuation, the county board of equalization raised the valuation to $700,000. The original $600,000 valuation appeared to the state court approximately a fair 100 per cent valuation. It appeared also that farm property in Dakota County was valued at 55.70 per cent of full value while the urban property was generally valued at 49.29 per cent. Despite these facts, the court refused any remedy except that of having all the undervalued property raised to its full value.

The case was carried to the United States Supreme Court, which ordered a lowering of the valuation consistent with the facts. Since the remedy of the state court was clearly impossible, it was no remedy at all; and plaintiff would be left without redress for a proved wrong which, in this case, was held to be a violation of the Fourteenth Amendment. This decision will probably prevent some of the worst cases of this form of discrimination, but it cannot prevent all of them. For the court was careful to point out that for such remedies the wrong must be material, intentional, and definitely injurious to the plaintiff.

VI. DISCRIMINATIONS BETWEEN REAL AND PERSONAL PROPERTY

Concerning the discrepancy between personalty and realty it is not easy to speak in detail. In the Virginia analysis it was found that the ratio for real estate was 38.5 per cent, while the ratio for tangible personal property was 46.8 per cent.[2] A. E. James has described the condition:

[1] *Sioux City Bridge Co.* v. *Dakota County*, 260 U.S. 441.

[2] James, *op. cit.*, p. 85.

The following conclusion can be drawn relative to the taxation of tangible personal property. This property on the whole is somewhat better assessed than is real estate, a fact not always brought out in reports relative to taxation. Many writers have visited upon tangible personal property the odium very properly borne by the assessment and taxation of intangible personal property. As a matter of fact, tangible personal property partakes very largely of the condition of real estate. It is in view and most of it can be counted. It is available for appraisal in quantities whose values are fairly well known to the average man. The opportunities for underassessment are rather less than those for the undervaluation of realty. The main defect of the assessment of tangible property arises rather from the failure to list the property at all than from failure to list it at a reasonable value.[1]

In comparing different types of intangible personal property, circumstances are different. As shown above, a note, money or deposit, or a bond can hardly be assessed at much less than par. Consequently such intangible property as is caught pays at a rate much heavier than that paid by real estate and tangible property, though equity demands assessment at the same level.

In conclusion, the uniformity rule is modified perhaps as effectively by illegal differential assessment-ratios for different properties as by the illegal nonlisting of taxables, and perhaps as much as by the legal adjustments of exemptions and classification. It is ludicrous to speak of proportional taxation of general property. There is, in fact, no such thing. But the battered uniformity is still further seriously modified by delinquencies in tax payments, which are the subject of discussion in the chapter following.

[1] James, *op. cit.*, p. 85.

CHAPTER XIII

COLLECTION AND DELINQUENCY

Of all the stages in the administration of the general property tax, the final stage, that of collecting the taxes extended on the roll, is the least explored, yet most in need of careful study. It should be a relatively simple matter to collect the tax, once it has been extended on the roll and a proper warrant has made it a legally collectible claim. On paper, at least, the collector has adequate authority; the tax is usually prior to all other claims; barring fraud and illegality in the levy and assessment, nothing should stay the collection. In five states[1] the ancient practice of imprisoning the delinquent taxpayers is still permitted by law, though probably rarely if ever employed.

In actual experience the due date for taxes is, in effect, a sort of judgment day on which the tax claims are segregated into wheat and chaff. Those who fail to appear before the collector's window have various motives. There are the careless taxpayers who simply forget to pay on time, and who will presumably pay with interest and penalties later on, and those who have neglected to "exhaust their administrative remedies" before the assessing and revising bodies. There are the improvident or unfortunate persons or corporations who simply do not have the money to pay, because of individual or general misfortunes; some of these will also ultimately pay. There are those who contest taxes on the ground of improper or illegal imposition or assessment. There are some, many more in fact than is commonly believed, who deliberately refrain from paying taxes because the value of the property does not justify the payment. Some refrain because they hope, not infrequently with good reason, that the collector cannot or will not collect. And some, to make the list no longer, "stall" or "strike," hoping to force some adjustment through a "taxpayers' strike,"[2] or to "compromise" the taxes with the officials, legally or otherwise.

[1] Delaware, Maine, Massachusetts, New Hampshire, and New Jersey (for personal property taxes only).

[2] At the time of writing (May, 1931) civic organizations of Chicago are appealing to taxpayers to abstain from the "taxpayers' strike," which was fomented by a

Among the accessories, before and after the fact of delinquency, are still more variegated groups. There are legislators who appropriate funds too freely and do not provide adequate supplementary sources of revenue, thus necessitating property taxes beyond the "saturation point," and who also fail to enact adequate measures for handling delinquent property. There are local budget-making officials whose powers of appropriation are not balanced by an adequate sense of responsibility. There are assessors and reviewing bodies who permit excessive assessments. Inefficient and fraudulent collectors must bear part of the blame. And finally, but not least, there is a variegated list of "tax sharks," "tax fixers," "tax attorneys," "tax certificate financiers," some legitimate, but many at least questionable, who, besides aiding in the settlement of bona fide disputes, often make lucrative business for themselves by creating adjustment claims where none would otherwise be raised.

I. COLLECTION

It is extremely difficult and precarious to reduce the innumerable details of the collection procedure to either a tabular or a textual statement. Even in a single state, especially in an older state, where the practice has been adjusted to local whims and needs, some of which have lost their validity, the details defy description. Only the principal features can be described; even these are uncertain, because the practice often differs from the law, in varying degrees and from place to place.

A. AGENCIES OF COLLECTION

No state collects all its revenue entirely through one agency. The collection of license fees is often assigned to administrative officers as an incident in the regulation of industry. Certain property taxes paid by corporations whose property is assessed by other than local assessors are sometimes collected by other than the regular collector. Delinquent

group of real property owners and which is believed to be responsible for a large part of the delinquency of more than $170,000,000 of the 1929 Cook County property taxes due May 15, 1931. This enormous initial delinquency has since been greatly reduced.

taxes may be assigned for collection to the sheriff who, in some states, is also the regular collector. Even the assessor is sometimes required to collect taxes on personalty, if he has reason to fear these taxes will otherwise become delinquent.

There are various collection units and agencies. But usually the county is the unit and the county treasurer the collector. In New England, however, the town collector collects practically all property taxes. This official is usually elected, especially in those towns that have become large cities; but where there is no elected collector, the town treasurer or the constable may act as collector. From the sums collected, the amount required by the state is certified to the state treasurer. The town is responsible for the amount required; and the state officers may, if the amount is not all paid, levy upon and sell for the satisfaction of its claim, not only the property of the town, but also the property of its inhabitants. In such cases, however, the inhabitant whose property has been seized has recourse against the town with interest, in Vermont at the rate of 12 per cent. The New England influence has extended to Illinois (in part), Michigan, New Jersey, New York, and Wisconsin, where there are no county collectors.

In Idaho the county assessor collects the taxes on personal property. In Texas the sheriff may be both assessor and collector in counties having less than 10,000 population. The sheriff is the tax collector in a number of widely scattered states, namely, Arkansas, Illinois,[1] Kentucky,[2] Louisiana,[3] Mississippi,[4] North Carolina, Oregon, and West Virginia. In another group, including Florida, Georgia, Maryland,[5] and Pennsylvania,[6] the collector is elected or appointed as such. In Tennessee the county trustee collects the taxes.

In about one-third of the states there is, or may be as a matter of local option, separate collection of city, town, and county taxes. The

[1] In counties not under the township form of organization only. In Cook County the county treasurer collects the amount remaining uncollected by the town collectors after a specified period.

[2] Except in cities, where some other official may be designated.

[3] Except in Orleans parish, where a special tax collector is provided.

[4] Except that municipalities have their own collector.

[5] For state and county taxes, and for the tax on intangibles, only.

[6] Except for certain cities and townships.

several taxes of these different units may, moreover, be collected at different times. To the feature of paying the taxes in instalments, which may result from having several collectors, there is no objection. But it seems to be an unnecessary duplication to have more than one collector in each county, just as it is unnecessary to have more than one assessed valuation to levy taxes on.[1]

Where the county treasurer, or town or city treasurer, is ex officio the tax collector, the problem of compensation is ordinarily solved by providing for a straight salary. Fees and commission sometimes constitute the compensation; in this case the collector usually receives a percentage of the money collected, and the state and the county share the cost. The fee or commission system is fraught with chances for abuse. In general, the method has resulted in collecting those taxes easiest to collect, and neglecting the rest. But the political evils of the commission system are much greater. In the rapidly growing tax jurisdictions, the amounts collected are so large in proportion to the effort, the individual items often being very large, that the collector would be paid hundreds of thousands of dollars in certain parts of the state on a percentage which would hardly provide compensation sufficient to induce anyone to undertake the work in other jurisdictions. It is almost impossible by any system of classification to maintain for any length of time any reasonable relation between the compensation and the work done in the different collection districts.

A brief description of the collection system of Illinois will exemplify (1) the difficulty of reducing a description of a tax collection system to a brief statement, particularly in a tabular form; (2) the impropriety of the small collection districts; and (3) the unwieldiness of the commission form of compensation. The concurrent influences of the southern source of her population, favoring a county-unit local government, and of the northern source, favoring the county-township-unit local government, fastened upon that state a provision in the constitution of 1848, allowing the counties local option as to which form they would choose. The county form has declined in number, to sixteen at the present time, in the southern and less populous part of the state. In these sixteen counties the sheriff is ex officio collector, without extra compensation.

[1] Cf. National Industrial Conference Board, *State and Local Taxation of Property*, Table 17, pp. 207–13, for a tabular presentation of details on the collection of current taxes.

In the eighty-five counties organized on a county-township basis, and in Cook County for which special provision has been made, the county treasurer is ex officio the county collector; and there are elective town collectors, except in the seven towns of Cook County entirely within the corporate limits of Chicago. The county collector is also ex officio town collector of any part of the extended taxes not collected within a specified period after the due date.

Prior to 1917 the commission for town and county collections was 3 per cent in counties of the first class (population of 25,000 or less), 2 per cent in counties of the second class (population of 25,000 to 100,000), and $1\frac{1}{2}$ per cent in counties of the third class (population over 100,000), except that on collections for cities, villages, and other municipalities, the commission was only 1 per cent, and, money paid to the county collectors by the town collectors excepted, the commissions were $1\frac{1}{2}$, 1 and $\frac{3}{4}$ of 1 per cent in the three classes of counties, respectively. In 1917 the town collectors in the first and second class counties were abolished, the county collector becoming responsible for the entire amount. There were limits of $1,500 in the two first classes of counties and of $4,000 in the third class. In 1927 the rate was again changed to 2 per cent for all counties, with a maximum commission of $1,500 in all counties with population not exceeding 300,000 and $10,000 in all others (Cook County). But the county boards, and the town boards in Cook County, may vote more if necessary. Within the maxima specified, if a town's boundaries coincide with those of a village, the village council may vote to spend more.

The classifications are so complicated as to be almost unintelligible to an outsider and must be rather elaborate even to the natives. It would seem that nothing but a larger collection district, presumably the county, will reduce the costs to such a basis that a salary can be paid for the service.

B. THE PROCESS OF COLLECTION

In only a few states[1] is the collector required to send a tax bill to the taxpayer. This is done in many states, however, without legal require-

[1] Florida, Idaho, Illinois, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, Utah, and Wyoming. In Kansas, Maryland, Nevada, North Dakota, Virginia, and Washington, also, are notices sent, under certain conditions, such as on real estate taxes or on personal property taxes only.

ment. Failure to receive such notice will not relieve any taxpayer of the duty to pay, or of the consequence of not paying.

Where the town collector collects all property taxes, there need be no particular arrangement about the place of payment. Where there is only one collector in each county, it is inconvenient to make all payments at the county seat; and it is equally inconvenient in many large cities to make all payments at the city hall, so various arrangements are resorted to for the convenience of the taxpayer. In a few states, such as Arkansas, New Jersey, New Mexico, North Carolina, Ohio, and Virginia, the county collector is required to be in attendance for the receiving of taxes at convenient points in the county, say, in each election district or in each magisterial district. In California and Michigan the collector sometimes makes personal visits to collect. It is a common practice to arrange with banks to receive payments from resident taxpayers, by furnishing them a statement for each taxpayer. There the payment may be made by check, the bank transmitting by check to the collector, unless a county deposit is maintained at the bank. The collector similarly transmits by check (warrant) to the state treasurer or other proper official. The public treasurers, quite properly, seldom have much cash on hand, most of their business being done by transfer of deposit credit.

C. TIME OF PAYMENT

The time of payment is important. The processes of listing, valuation, equalization, the computation of the tax rate, and the extension of the taxes on the roll, require time; hence considerable time elapses between the date of the assessment and the date when the taxes are due, in some states this period is as much as one year. It is desirable that payment should be due at the time of the year at which money is relatively abundant. Or it may be more important to the taxpayers to be allowed to pay in instalments. Instalment payments are also of importance to the treasury, for if the taxes are all paid in a short period during the year, the treasury must adjust itself to a feast-and-famine program or must borrow. For efficiency in collection it is also important that the due date shall not be too long deferred after the day of assessment.

Strangely enough, the majority of states do not permit payment of taxes in instalments. Fourteen states[1] and the District of Columbia permit payments in two instalments, the second half being payable after intervals of from three months in California to eight months in Wyoming. Six states[2] permit the second half to be paid about six months after the first without penalty, provided the first half is paid before it becomes delinquent. If it is not paid when due, the entire sum becomes delinquent. The only objection to instalment payment is the extra cost and work for the collector; but that disadvantage would seem to be much more than offset by the convenience of instalment payment to the taxpayer and the treasury.

The collection being the final step in the administration of the property tax, we should expect, and we find, that the time of payment depends upon the time chosen for some of the earlier processes. The assessment day of the southern states is on or soon after January 1. It occurs later as we move northward, until after June 1 there are few tax days. The due dates begin on September 1 and trail off until after March there is only one due date.[3] In no state where the due dates are uniform, do they fall in April, June, July, and August, for the first or the only instalment. There is thus a period of roughly eight months between the assessment day and the due date. The due date for the first or the only payment comes after the harvest. It is not always the same for real and personal property; and some states provide that taxes not secured by real estate may be due upon assessment or upon demand, but this provision is generally a dead letter. In about a dozen states the due date is determined by the date upon which the roll is given to the collector, a date sometimes limited only within a certain period. Frequently the taxes of the various local governments are not all due at the same time; and the dates may vary among the towns and cities of the same state.

In all states, a period is allowed after the due date before the taxes become delinquent. The variations in this period of grace are interest-

[1] Arizona, California, Colorado, Idaho, Indiana, Iowa, Minnesota, New Mexico, New Jersey, New York, North Dakota, Ohio, Oregon, and Wyoming.

[2] Kansas, Montana, Nevada, Oklahoma, South Dakota, and Washington.

[3] New Jersey, May 15, except possibly in some of the eleven states in which the date is variable or not specified.

ing. In thirteen states[1] and the District of Columbia, the period is only thirty days. In two others,[2] it is forty-five days. In nine,[3] it is sixty days. In two,[4] it is seventy-five days. In six[5], it is ninety days. In two,[6] it is five months; in Florida, six months; in Tennessee, seven months; and in Kentucky, ten months. Very long periods between the due date and the delinquent date are misleading, however, because forfeiture of discounts and penalties are imposed for delays of less than the periods stated. The remaining states have varying periods for different taxes and for different localities.[7] It is difficult to see why more than thirty days is needed. In practice, the taxes are not paid during the early part of the period of grace anyway, and most of the amount is paid in the last few days. A short period of grace will facilitate collection, and shorten the interval between the assessment date and the effective due date. It will also reduce the nonpayment of taxes resulting from the removal from the district of movable property.

D. STIMULI TO PROMPT PAYMENT

Legislative attempts to induce prompt payment of taxes sometimes assume the form of rebates or discounts. For example, in Kentucky, taxes due on March 1 are entitled to a rebate if paid before September 1; they become delinquent on December 1. The discount in West Virginia is 2.5 per cent; in Florida it is 2 per cent, if the tax is paid during November, and 1 per cent if paid during December. In Washington it is 3 per cent if the tax on realty is paid in full when the first half is due. Discounts occur only in fifteen states, and they are not usually allowed on state taxes, while for the local taxes they vary from place to place, being permissible, if desired by the localities, up to 10 per cent in Maine, where the highest discount is allowed.

[1] California, Connecticut, Idaho, Illinois, Iowa, Maryland, Michigan, Mississippi, Montana, Nevada, Vermont, Wisconsin, and Wyoming.

[2] New Jersey and Oregon.

[3] Arizona, Colorado, Kansas, New Hampshire, North Dakota, Oklahoma, Pennsylvania, Utah, and West Virginia.

[4] Ohio and South Carolina.

[5] Alabama, Arkansas, North Carolina, Texas, Virginia, and Washington.

[6] Indiana and South Dakota.

[7] Cf. National Industrial Conference Board, *op. cit.*, Table 18, pp. 214–17.

When the tax becomes delinquent, either a penalty or an interest charge or both apply. Twenty-one states appear to provide no penalty feature. Alabama, Massachusetts, and Tennessee charge costs and fees. Elsewhere the penalties range from 2 per cent in Idaho and Wisconsin to 15 per cent in Nevada, Oklahoma, and Oregon; no particular rate appears to predominate. The penalties sometimes apply to all of the tax, sometimes only to the half unpaid.

Ten of the states appear to charge no interest on delinquent taxes; but this must be interpreted in the light of the practices of allowing rebates and charging penalties. The rate of interest varies from 6 per cent per annum in Kentucky to 3 per cent per month in Nevada. This rate of interest in Nevada, moreover, is in addition to a penalty of 15 per cent.[1] There are still different rates to be charged against the delinquent taxpayers after the tax sale has been held. Much space would be required to show the diverse combinations in which two or more of the features of discount, costs, penalties, fees, and interest charges have been combined to stimulate prompt payment.

E. COST OF COLLECTION

The question is often asked: What is the cost of collecting the general property tax? Unfortunately it is difficult if not impossible to give an accurate answer. More important, for comparative purposes, than the cost of collection in the narrow sense, is the cost of administration. But it is difficult to obtain the cost of merely collecting the tax, because the collecting officers nearly always have other duties, whose cost is difficult to segregate.

Professor M. S. Kendrick, investigating the cost of collection in New York state,[2] found that the average cost was 1.29 per cent of the collections for the work of the town and school-district collectors. With the addition of the cost of the county treasurer's office, the cost rose to 1.71 per cent, if the school taxes are included, and 1.93 per cent, if they are excluded. The rather high cost of mere collection is perhaps accounted for by the fact that school and other taxes are separately

[1] *Ibid.*, Table 19, pp. 218–22.

[2] *Collection of General Property Taxes on Farm Property in the United States, with Emphasis on New York*, Cornell University, Agricultural Experiment Station Bulletin, No. 469.

collected by different officers. The cost in eighteen of the twenty states in which the county treasurers collect the taxes was found to be .78 of 1 per cent.

The 1928 North Carolina Special Tax Commission made a careful and intensive study of the cost of listing, assessing, and collecting the general property tax in that state. The average cost of listing and assessing property was 0.99 per cent of the gross tax charge, and for collecting, 1.60 per cent, or a total of 2.59 per cent for both. The listing and assessment cost ranged from 0.25 of 1 per cent to 3.60 per cent; there is no apparent valid explanation for this range. The cost of collecting ranged from 0.5 of 1 per cent to 5.24 per cent, also with no apparent valid explanation.[1] While the state average collection cost was 1.60 per cent, it was 2.38 per cent in counties where the compensation was on a commission basis; 1.09 per cent in counties having independent tax collectors; and 1.76 per cent in counties employing township collectors as well as the sheriff.

From the scattered evidence it appears clearly enough that there should be only one collection district in each county, except possibly where there are cities large enough to warrant a separate municipal district; that the county collector should collect the taxes for all local governments in the county; and that the collector should be paid on a salary basis. It is important to remember that not all the considerations are of a pecuniary character, but there is at least one other pecuniary consideration, namely, the effectiveness of the collection. The collector's compensation may be low as a percentage of what he collects, while very excessive in terms of what he fails to collect.

II. DELINQUENCY

When the tax is not paid on or before the last day of grace, it becomes delinquent, and the lien of the government becomes effective. The date of the lien is unfortunately not always certain, being presumably effective from the day of the technical levy of the tax. The significance of the date is that it determines the liability for the tax as between the buyer and seller, and may, if the property is exempt to one of them, determine whether or not it is taxable.

[1] *Report*, pp. 417–21, 452–55, 462–65.

A. THE TAX LIEN

In the important matter of the property covered by the lien the state laws exhibit little uniformity, no two states, in fact, being alike.[1] There is a group of states in which all taxes are a lien on all property of a taxpayer, as in Georgia, Idaho, Iowa, and others. In such states, there is usually some restriction on procedure, as in Alabama, where the collector must first levy on the personal property, and may sell real estate for taxes only if the proceeds from the sale of personal property is insufficient. There is, however, a strong tendency, especially with taxes on real property, to make the lien against only the property that is taxed. This is another reason for regarding taxes as being on the property *in rem* rather than on the person, *in personam*. The law of Mississippi specifically states that the tax is against the property and not against the person. From the laws and the practice it might be concluded that the real property tax is predominantly a tax *in rem*, while the personal property tax is to a much greater extent a tax *in personam*. Almost invariably the real property tax is a lien upon the property, not enforceable against the seller, but against the buyer. In the case of personal property the tax is rarely enforceable against a subsequent purchaser. The Michigan rule, that a tax lien on personal property may be enforced against a subsequent purchaser unless the sale was made in the ordinary course of business, suggests some of the issues involved.

In some states, as in South Dakota, the lien is perpetual for taxes on real property. In that state there is, moreover, a lien, limited to ten years, against real property, for uncollectible personal property taxes. In the absence of specific provision to the contrary, the lien may be presumed to be perpetual, since the statutes of limitations do not run against the state. But in some states the liens expire, as in Georgia, where the limit is ten years. In Connecticut the lien becomes invalid after one year unless it is registered.

A lien without time-limitations against personal property would be annoying and ineffective, especially if enforcement were generally attempted. It must also be troublesome against real property, there being always the possibility of unpaid taxes presenting possible defect in the title. With efficient collection such liens should be unnecessary. For

[1] National Industrial Conference Board, *op. cit.*, Table 20, pp. 223–31.

if the delinquent property is properly disposed of, by sale for taxes or by forfeiture to the state, practically all claims for taxes should be liquidated within a few years. The large volume of liens for unpaid real property taxes indicate that the states do not often clean house so as to rid the state, county, or city of claims, most of which doubtless are worthless. "Tax procedure should be based upon a carefully planned calendar, with the shortest duration of time, consistent with the public good, between the date of levy and the final disposition of the lien."[1]

The enforcement of tax liens against personal property is exceedingly difficult. It is impossible to describe the practices followed in collecting personal property taxes because the practices have not been seriously studied. But it can be said that conditions are very bad, especially in some of the larger cities. Not infrequently the collectors make no attempt to collect personal property taxes not voluntarily presented at the collector's window. Of this practice it may be said by way of explanation, if not of justification, that strenuous efforts to collect such taxes are poorly rewarded, in terms of the revenue yielded, and are also politically inexpedient for the collector where the office is elective. Personal property taxes are ordinarily small in amount, partly because of evasion of assessment, and partly because of excessive exemption. When collected separately from the real property taxes, they are peculiarly difficult to collect. All these facts add strength to the arguments for eliminating at least some forms of personalty from the category of taxable general property.

B. EXTENT OF DELINQUENCY

Until recent years there has been practically no attempt to throw light on the question of tax delinquency. Doubtless the aroused interest is due to a growing awareness of the menace of excessive delinquency. That the menace is threatening is shown by the scattered studies that have been made, but as yet the data are unsatisfactory. Students of tax delinquency do not yet speak a common language. Delinquency does not mean the same thing in all states. It begins usually when the tax is not paid on the "dead-line" date, but that date is variously determined. The delinquent property, or delinquent tax, is

[1] C. H. Chatters, *The Enforcement of Real Estate Tax Liens* (New York: Municipal Administration Service, 1928), p. 7.

always advertised before being sold or forfeited, and the advertising leads to payment of a part of the tax. The sale may be delayed, legally or in practice, after the date of advertising. It is difficult to secure comparable data for the different states. The data will not be adequate until they show the delinquency of different classes of property separately, the differences in delinquency among the various regions of the state, and the delinquency experiences of a series of years. Even so, the scattered and inadequate data readily demonstrate the seriousness of the problem.

TABLE 78

TAXES ON DUPLICATE AND TAXES DELINQUENT IN OHIO, 1922–29*

Year	Taxes on Duplicate†	Amounts Delinquent	Percentage Delinquent
1922	$260,413,461	$16,382,617	6.3
1923	276,619,891	20,429,930	7.4
1924	295,600,833	23,186,546	7.8
1925	319,994,472	26,447,289	8.3
1926	342,377,343	31,067,794	9.1
1927	371,548,998	38,087,912	10.3
1928	378,395,036	45,105,864	11.9
1929	400,395,904	52,036,679	12.9

* From *Annual Report of Ohio Tax Commission, 1929*, pp. 15, 148, and Table 8, and from previous reports.

† Current tax extensions plus delinquencies.

For some years the Ohio state tax commission has published in its annual reports the delinquency data, by counties, for the state. Table 78 is based upon these data. While the taxes on the duplicate increased from $260,413,461 in 1922 to $400,395,904 in 1929, or 53.7 per cent, the delinquent taxes increased from $16,382,617 to $52,036,679, or 219 per cent, and the percentage of delinquency rose from 6.3 in 1922 to 12.9 in 1929. The reports do not tell the stage of delinquency of these Ohio taxes; but it appears to be the earliest stage, that just after the close of the period of grace. The figures include delinquencies for several years, and not merely the delinquencies of the current years. They include special assessments also. But the basis is presumably the same, and the growing seriousness of the problem is amply demonstrated.

The Ohio tax commission data permit some degree of analysis of the

distribution according to class of property and locality. It is interesting to note that the delinquency, expressed as a percentage of the value of the property taxes for the state as a whole, was almost the same for both personal property and real property. The real property valuation amounted in 1928 to $9,414,665,235, or 69.5 per cent of the total valuation.[1] Taxes delinquent on real property amounted to $30,988,561, or 69.9 per cent of total taxes delinquent. But these facts do not, of course, warrant the conclusion that personal property taxes and real property taxes in Ohio are delinquent to the same degree in all local units, or even, strictly, within the state as a whole. For, while the valuations of personalty and realty are given separately, the taxes levied against each are not. Moreover, the definition of personal property includes certain public utility properties; this fact tends to vitiate the comparison. Elsewhere it appears that personal property taxes tend to be delinquent to a greater extent than real property, notwithstanding the fact that the collector has much more direct processes for collecting on delinquent personalty than on delinquent real property.

The North Carolina Special Tax Commission of 1928 conducted a careful study of delinquencies, but confined its statistical report chiefly to the delinquency of real property. Table 79 presents a summary of the delinquency condition by sections of the state. It also shows the delinquency at two different stages, namely, at the point at which the land is advertised for sale and at the point of actual sale. The variations among the sections are striking. Thus, while the delinquency ratio was 2.82 per cent in the Piedmont section, it was 10.49 per cent in the adjoining Mountain section. The economic conditions of a region are obviously of extreme importance as factors in delinquency. It is also of interest to note that, of the $4,257,254 delinquent at the stage of advertisement for sale for taxes, the sum of $2,457,256, or 57 per cent, remained unpaid, the major part of the remaining 43 per cent presumably having been paid meanwhile.

The variations in the delinquency ratios among counties in North Carolina, as elsewhere, are of course much wider than the variations by

[1] Cf. also Ohio Joint Legislative Committee on Economy and Taxation (Eighty-Sixth General Assembly), *Report*, December, 1926, p. 154. According to this source real estate delinquencies increased 557 per cent in Ohio between 1913 and 1925 while the taxes levied on real estate increased only 227 per cent.

states. The North Carolina commission also presented tabulations of the statements or settlement by county collectors for the years 1924 to 1927, inclusive, showing lands offered for sale or sold in the counties.[1] While the average value of land sold or offered for sale for taxes in the state as a whole in 1927 was 5.64 per cent of the gross tax charges against the collectors, it exceeded 20 per cent in one county, 15 per cent in five counties, 10 per cent in twenty-one counties, and 5 per cent in thirty-three counties. On the other hand, in fourteen counties the sales or offerings for sale for taxes were zero or less than 1 per cent of

TABLE 79

GROSS LEVY, LAND ADVERTISED, AND LAND SOLD FOR TAXES IN NORTH CAROLINA, BY SECTIONS, 1928*

Section	Gross Levy	Lands Advertised for Sale for Taxes		Lands Sold for Taxes	
		Amount	Percentage of Gross Levy	Amount	Percentage of Gross Levy
Piedmont......	$20,889,553	$1,309,969	6.27	$ 589,401	2.82
Coastal Plain...	11,071,228	821,479	7.42	508,061	4.57
Tidewater......	7,791,769	1,112,897	14.28	736,632	9.45
Mountain......	5,943,180	1,012,909	17.04	623,162	10.49
State......	$45,695,730	$4,257,254	9.32	$2,457,256	5.38

* From *Report of Special Tax Commission, 1928*, p. 429.

the gross charge to the collector. The variations in the counties tend, moreover, to persist from year to year.

The excellent work of the North Carolina commission throws light also on the extent to which, in that state at least, the amount of delinquencies on the books in a given year are due to nonpayments for the current year or are hangovers from past years. Thus, of the $4,433,244 of "uncollected land sale certificates" held in 1927 by the several counties, 55.09 per cent were for the first year of delinquency, 1927; 15.62 per cent for 1926; 7.52 per cent for 1925; 4.29 per cent for 1924; and the remaining 17.48 per cent for earlier years, some as far back as 1875.[2] Doubtless some of these delinquencies are due to errors in the assess-

[1] *Report*, pp. 434–49, Tables 138–41, inclusive.

[2] *Ibid.*, pp. 429–30, Table 142.

ment, court decrees, and other causes. There were some counties in which the delinquencies for the earlier years exceeded those for 1927 by a wide margin. An attempt should be made to clear the portfolios of the counties of these claims, many of which are no doubt worthless.[1]

The North Carolina commission also offers evidence on another point, the relationship between the delinquency ratio and the amount of the tax. A priori, it would be expected that taxes of low amounts would show relatively as well as absolutely greater delinquency ratios than taxes of large amounts, because the small amounts would tend to be upon real property whose income would not justify the payment of the taxes. The findings of the Commission tentatively support this conclusion.[2] Of the 101,325 items of land advertised for 1927 taxes, 31,427, or 31 per cent, were for taxes of less than $10; 54,795, or 54 per cent, were for amounts less than $20; while only 649 items were for taxes over $500. As the amounts of taxes in the computations include costs, which on small taxes is a relatively heavy item, the delinquency on low-value parcels was relatively more conspicuous than the figures show.

Table 80 shows the taxes extended on real and personal property in Cook County, Illinois, for the years 1922–28, inclusive, and the taxes uncollected thereon for each year. This table is of particular interest because it shows separately the delinquencies on personal property. While the delinquency ratio for all property taxes increased from 12.0 per cent in 1922 to 23.5 per cent in 1928, the ratio for personal property was much higher, increasing from 25.0 per cent to 35.1 per cent during the period. Also of interest in this connection is the fact that the percentage of total taxes extended on personal property has been declining. In 1922, $34,919,000, or 24.2 per cent of the total of $144,524,000, was

[1] An example of how misleading statistics of delinquency may be, when they carry unknown quantities of uncollectible debts, may be seen from the data presented by the Ohio Joint Legislative Committee on Economy and Taxation of 1926 (Eighty-Sixth General Assembly, pp. 153–62). At p. 154, Table 19, it is shown that the delinquent personal property taxes in 1918 amounted to $8,147,086.34 and that in 1919 they had shrunk to $2,449,784.83. It is then explained that the "startling decrease of delinquencies in 1919 was due to the 'writing off' as uncollectible of over $6,000,000 of personal taxes in Cuyahoga County."

[2] *Ibid.*, p. 427, Table 153.

extended on personal property; while in 1928, $40,037,000, or only 18.2 per cent of a total of $219,816,000, was extended on personalty. In the rural sections of Cook County, personalty is not only better assessed but taxes thereon are better collected. Consequently, the record for the urban part of Cook County, especially Chicago, of the personal property tax is considerably worse than the table would indicate.

TABLE 80

PROPERTY TAXES EXTENDED AND UNCOLLECTED IN COOK COUNTY, ILLINOIS, 1922–28*
(Amounts in Thousands)

Year	Total Current Property Taxes			Current Real Estate and Railroad Taxes			Current Personal Property Taxes		
	Extended (1)	Uncollected (2)	Percentage (2) of (1) (3)	Extended (4)	Uncollected (5)	Percentage (5) of (4) (6)	Extended (7)	Uncollected (8)	Percentage (8) of (7) (9)
1922	$144,524	$17,439	12.0	$109,907	$ 8,702	7.9	$34,917	$ 8,737	25.0
1923	157,912	18,987	12.1	122,209	9,657	7.9	35,703	9,330	26.1
1924	168,261	20,185	12.0	130,462	9,664	7.4	37,799	10,521	27.8
1925	189,816	25,018	13.0	147,600	12,727	8.1	42,216	12,291	29.1
1926	195,231	25,022	12.8	156,210	14,141	9.1	39,021	10,881	27.8
1927	229,193	40,017	17.5	187,069	24,716	13.2	42,125	15,301	36.3
1928	219,816	51,748	23.5	179,779	37,669	20.9	40,037	14,079	35.1

* From statements made by the county treasurer. The delinquency for 1929, on taxes due May 15, 1931, is reported to be over three times as large. But no detailed report is yet available.

NOTE.—Tax extensions are those for the current year. The uncollected amounts are those for the current year, including those for back taxes, being thus the difference between the current year's extensions and the current year's collections, or the delinquencies for each year.

It is not strange that taxpayers and students of taxation are becoming increasingly concerned about the mounting delinquency ratios.[1] The Kansas Tax Code Commission of 1929 presented information secured by the Kansas State Agricultural College which showed that, in twenty-one counties studied, the increase in tax delinquency of farm real estate between 1917 and 1927 was 329 per cent. Here again, as in North Carolina, the different regions showed different rates of increase. Thus, in the grazing region the increase had been only 156 per cent, while in the corn belt it was 389 per cent, and in one county of the recently rechristened "blue stem" region the increase was 9,540 per

[1] Cf. J. P. Jensen, "Delinquent Taxes," *Proceedings*, XXIII (1930), 228–42.

cent.[1] Through independent inquiries to the county treasurers the commission learned that in thirty-one counties the tax sales of real property had risen from 1.5 per cent of the total general property tax levies in 1920 to 2.2 per cent in 1928; or, expressed as percentages of real property taxes, from 2.5 per cent to 3.4 per cent.[2] Being interested also in the collection of personal property taxes, the commission found that in Cowley County, during the period 1917–25, of the $110,623.06 sheriff's warrants issued for the collection of personal property taxes, only $56,169.11, or 50.8 per cent, had been collected.

A study made in Colorado, under the auspices of the Denver Chamber of Commerce, disclosed that in twenty-four counties of the state, taxes for 1928 to the extent of $17,724,590.76 had been charged to the county treasurers for collection; $951,420.09, or 5.37 per cent was delinquent to the extent of being advertised for sale; and $456,855.99, or 2.56 per cent, was paid thereon before the sales. While in a few counties the collection was almost 100 per cent, in one county less than 70 per cent had been collected before delinquency.[3]

Occasionally tax delinquency arouses wide interest of tax officials and legislatures. In 1923, Montana required the county treasurers to report to the state board of equalization the amount of personal property taxes delinquent, together with the reasons for the delinquency. The results, showing considerable variation among the different counties, are given in Table 81. Two principal causes of the delinquency were found. The first was the existence of prior liens against a great deal of personalty. To remedy the defect, the board of equalization recommended to the legislature the creation of a tax lien, prior to all all others, against all personal property equal to the amount of the tax due. The second cause was of recent origin. Many automobiles were listed for taxation, but had been moved out of the jurisdiction before the time for collection. The remedy suggested was that payment of personal property taxes be made prerequisite to granting of automobile licenses, and that the county treasurer collect both the property tax and the license tax at the time of the application for the license.[4]

[1] *Report of Kansas Tax Code Commission, 1929*, pp. 95–99, 116.

[2] *Ibid.*, p. 95.

[3] J. P. Jensen, *Survey of Colorado State Tax System*, pp. 125–35.

[4] *First Biennial Report of the State Board of Equalization, 1924*, pp. 126, 127. Such arrangements occur, with variations, elsewhere.

In 1927 the Philadelphia Bureau of Municipal Research published a study[1] covering, among other things, the real property tax delinquencies in 22 of the largest cities of the United States during 1924–25, not including Chicago. The percentages of delinquency at the close of the tax period were found to vary from .51 of 1 per cent in Minneapolis to 16.26 per cent in Washington, D.C., the median percentage of delinquency being 3.81. While in some cases the large delinquency ratios are due to special circumstances, such as refusal of the banks of St. Louis to pay current taxes because of pending contests of their legality, the picture presented was true and has become considerably darker since then.

TABLE 81

PERCENTAGE OF DELINQUENT PERSONAL PROPERTY IN MONTANA, 1923

Percentage Delinquent	Number of Counties
0–4.9	26
5–9.9	15
10–14.9	4
15–19.9	6
20–24.9	2
25–29.9	0
30–34.9	1
35–39.9	1

C. CAUSES AND REMEDIES

An adequate diagnosis of the present epidemic of tax delinquency must not only disclose the cause of "normal" delinquency but also account for the concentration of delinquency in certain years, in particular localities, and on different classes of property. No exhaustive diagnosis can be attempted here; but brief consideration of the available evidence will reveal a number of important factors. These factors may be conveniently discussed under three headings:

1. *The taxpayer and collection practices.*—Among the delinquents the most ubiquitous offender is probably the careless property owner who neglects to pay the tax on time. We shall always have him with us, and we need not trouble much on his account, except to urge adequate notice, not only when taxes are due, but also when they are delinquent. That carelessness is a factor in delinquency is suggested by the fact

[1] *Methods of Collecting Real Estate Taxes in the Larger Cities of the United States.*

that in North Carolina and Colorado about 50 per cent of the taxes are paid after advertisement. The county treasurers of Colorado reported carelessness as a noticeable cause of delinquency.[1] Another cause of an appreciable part of the delinquency is found in the personal misfortunes which temporarily or permanently render owners of property unable to pay. To deal with such cases is not, strictly speaking, a tax matter.

There are numerous designing persons who deliberately refrain from payment, hoping to find in the law or procedure some loophole, or who, in the case of personal property taxes, believe the collector will not exert himself to collect the tax. The laws and the collectors often facilitate such evasion. Upon such persons no sympathy need be wasted. It is through the conflicts between these evaders and their "tax sharpers," on the one hand, and the honest legislator and tax collector, on the other, that the collection laws are developed, always against the background of the reluctance on the part of the general public to give the collector adequate means for collection.

One investigator found four types of practices of collection procedure in vogue:

> First, the most common practice is to sell tax certificates and permit redemption for a fixed period, after which a tax deed is issued. Second, the state or county automatically becomes the purchaser of all delinquent liens. The interest thus acquired is held for a fixed period and then liquidated by a sale of the property or the lien created by the tax. Third, the tax lien is foreclosed by legal process without any sale of certificates or liens. Fourth, in some jurisdictions tax certificates are sold and a fixed period of redemption allowed after which the lien is enforced by foreclosure proceedings similar to those used for the foreclosure of mortgages.[2]

2. *Economic conditions and delinquency.*—It is a simple matter to demonstrate that a close correlation exists between the temporal variations in the assessment ratio and current business conditions. It is no more difficult to demonstrate the relationship between the local variations in business and the geographic concentration of tax delinquency.

There is perhaps no fundamental remedy for the first of these conditions so long as the general property tax is the sole or nearly the sole

[1] Jensen, *Survey of Colorado State Tax System*, pp. 132–34.

[2] Chatters, *op. cit.*, p. 9.

source of revenue. For the higher the tax rates become, the narrower is the owner's margin, and the larger the fixed charges the owner must meet. Unfortunately, a greater reliance upon other sources of revenue will not wholly solve the problem. For these other sources also have a way of shrinking; and we are no longer concerned solely with the problem of the general property tax, but with the different problem of the fiscal management and the business cycle. The problem has been met in the past by letting the property owner take up the slack. There are limits, however, beyond which this source should not be pressed.

Turning now to the relationship of the delinquency to the permanently depressed conditions of a given locality, we find the situation much the same, except that it is hopeless to expect improvement in localities that may be described as economically decadent. Such communities are found in every state. It is this economic decadence that is responsible for the enormous tax delinquency ratios in certain counties, and especially in certain towns.

"Every step in progress makes it relatively more advantageous to obtain the food supply by more intensive use of good land rather than by the use of land such as is being abandoned. The high ratio of wages to prices of commodities accelerates this movement."[1] Though the statement was obviously made with reference to farm land, it is no less true, though with some modification, of urban land. Land having once had a value for use, or a present value for anticipated use, is found to have no value for any purpose or only such speculative market value as may be based upon the hope of finding an ignorant buyer. Where such lands are concentrated to any degree in a locality, the inevitable result is an epidemic of tax delinquency. Land that yields no net income, after taxes, will not be held permanently subject to payment of taxes. It will revert to the state for unpaid taxes.

The phenomena of economic decadence and its fiscal implications have been studied for New York agricultural lands.[2] Such decadence occurs in the cut-over regions of Michigan, Wisconsin, and Minnesota; in the worked-out mineral regions of Colorado, Utah, and Nevada; in

[1] G. F. Warren and L. M. Vaughn, "Abandoned Farm Land in New York State," *Farm Economics*, No. 56 (December, 1928), p. 1013.

[2] Compton, *Fiscal Problems of Rural Decline*, especially pp. 43–51, and the sources there cited.

the irrigated districts of Montana and California; in a great many cities, at least temporarily, where for some reason, the rate of growth is checked,[1] or a shift from one use of land to another takes place. Its effect is cumulative, for once an appreciable number of delinquencies occur, the burden of governmental costs must be borne by those who continue to pay taxes; this means that the tax rates are increased, leading to more delinquencies, and so on.[2] And the more densely populated the region was, and the better supplied with governmental service prior to the period of decadence, the greater is the problem. For these governmental services, in the form of schools and roads, will not readily be reduced when the support of the local property tax becomes inadequate.[3] The problem is further complicated by the smallness of the units, especially towns and school districts, and the practice of making the cost of schools and roads almost entirely a charge upon the property of each small local district.[4]

3. *Fiscal policy and administration.*—Finally, there is a set of political and fiscal conditions, which, when joined to the foregoing list, tend to aggravate the delinquency problem. Most of these conditions have been discussed. Aside from the American practice of saddling small towns and districts with burdens of the costs of public services of rather general benefit, there are the shortcomings of the budget-making and the assessment machinery.

The local budget-making machinery is an imperfect device for determining and controlling current costs of government, both for operation and for capital projects. The commitments of a community for schools streets, water works, highways and the like, may turn out to have been grossly in excess of future needs. Improvements are often financed by borrowing; and the principal and interest charges must be met. Costs of operation cannot readily be reduced. It is reported that the "Palo Verde Valley people in flush times had built their scaffold by their reckless expenditure of money."[5] When hard times came and the

[1] Any investor in Florida lands, at boom prices, could speak feelingly on this phase of the subject.

[2] Cf. New York Tax Commission, *Report, 1928*, p. 9.

[3] Cf. Compton, *op. cit.*, pp. 46–50.

[4] *Supra*, chap. iii.

[5] *Tax Digest*, "Palo Verde Valley Has Heavy Tax Delinquencies," October, 1930, pp. 359, 360

price of cotton went down, Blythe (the principal municipality) lost nearly 40 per cent of its population. The tax rate for all purposes is now about $35 on each $100 of valuation, and 55 per cent of the tax list in the Palo Verde school district is delinquent. Perhaps the expenditure seemed justified when made. Years ago, when natural gas was discovered in Kansas and believed to be inexhaustible, enterprising Gas City attracted certain industries dependent upon cheap fuel and developed metropolitan expectations. Today miles of sidewalks on the prairie and buried gas mains are mute witnesses to its brief glory. It is reported that, when the deflation came, property owners moved their buildings outside the corporation limits at night, in order to salvage something from the taxes, and that the local representative prepared a bill for the legislature to forbid the practice.

In such decadent areas the assessor faces a dilemma. If he obeys the law and reports a valuation reflecting the current income receipts and future expectations, the valuation will be reduced and the tax rates increased; and the poorer lands will have no taxable value. But the taxes will accumulate on the better lands, and perhaps reduce their value to zero. Should such a stage be reached, and taxes still be levied, it would be expedient for all owners to abandon their land. It is beyond dispute that this sort of thing does actually occur.

If the assessor seizes the other horn of the dilemma, as he usually does, in part, in trying to maintain a valuation that will support the public services at "reasonable "tax rates,[1] the results are not far different. Such a system of "pegged" valuations may in the long run justify itself by its results where values are merely falling temporarily because of a depression. But in a decadent community the principal result is that, by maintaining an arbitrarily high average valuation, and a relatively uniform valuation for all properties, he stimulates the tax sales of the poorer land and destroys the equities in the better grades of land through taxes concentrated on them.

[1] The assessor may have a justification for assigning an assessed value to land that is in reality worthless. For, due to the possibility of exploiting ignorant buyers and possibly to other causes, such land may actually have a market value. Mr. Compton reports that he "has been informed that the possibility of finding an unsuspecting buyer maintains a minimum value of farm lands in the southwestern part of New York of about $5.00 to $10.00 per acre" (*Op. cit.*, p. 48 n.).

The property tax, especially when levied at high rates, thus becomes an effective factor in extinguishing private titles in land. If the land is really worthless, no sympathy need be wasted on the property owner, provided the expropriation procedure be humane and lawful. For the owner loses nothing but an empty shell of ownership. And the land, though valueless as individual parcels, may yet have a value for the community, in whose hands it may perhaps be turned to a better use, such as growing timber. It would, in fact, be quite defensible to impose a nominal tax on such land, if to do so were administratively practical and constitutionally permissible, for the specific purpose of dispossessing owners of worthless land which could then be consolidated and put to its most advantageous use. But where the land is made to carry a "pegged valuation" to support services at local cost that are, in fact, general in benefit, there is an improper taking of private property.

CHAPTER XIV

THE LOCAL ASSESSMENT

The defects of principle in the general property tax are not solely responsible for the poor results attained. Much of the blame rests upon defects in the assessment machinery and procedure. Since the assessment is the pivotal part of the tax, it is not surprising that in the forty-eight states there has grown up a congeries of assessment laws, traditions, and practices so variable in detail from state to state as to defy detailed description. Also, it is not surprising, in view of the inertia of local democratic bodies, and, further, in view of the unparalleled rapidity with which many states have traversed the road from primitive frontier communities to industrially developed areas, that the existing laws, traditions, and practices governing assessment should lag far behind the needs of an effective property-tax system.

In Table 82 are presented a few of the features of the local assessment system which lend themselves to tabular presentation. Obviously the table can present only a skeleton, and not all parts of that. For detailed descriptions of the assessment machinery and procedure in each state the reader must consult the laws and administrative instructions. Fuller textual and tabular descriptions being now elsewhere available are not given here. The Bureau of the Census[1] presents every ten years a compendium of state tax laws. The National Industrial Conference Board[2] and the National Tax Foundation both give detailed descriptions. Occasional descriptions occur also in the regular reports and manuals of administrative tax commissions,[3] and in the studies of special tax commissions[4] and of other investigators interested in particular states.

[1] Bureau of the Census, *Digest of State Laws Relating to Taxation and Revenue, 1922.*

[2] *State and Local Taxation of Property 1930*, especially Tables 8–11, pp. 147–80.

[3] Cf. *Report of New York Tax Commission, 1926*, pp. 473–79.

[4] Cf. *Report of North Carolina Special Tax Commission, 1928.*

TABLE 82

SPECIFIED CHARACTERISTICS OF LOCAL ASSESSMENT IN THE STATES AND THE DISTRICT OF COLUMBIA, AS OF 1930

State or District	Assessment Unit (Area)*	Assessment Interval		Assessor		Tax Day	
		Realty (Years)	Personalty (Years)	Selection†	Term of Office (Years)†		
Alabama	C	1	1	E	4	October	1
Arizona	C	1	1	E	2	January	1
Arkansas	D	2	1	E	2	May	1
California	C	1	1	E	4	March	1
Colorado	C	1	1	E	2	April	1
Connecticut	T	10	1	E	3–4	V	
Delaware	T	1–6	1	A	V	V	
Dist. of Columbia	District	2	1	A	V	V	
Florida	C cv	1	1	E	4	January	1
Georgia	C cv	1	1	E	2	January	1
Idaho	C	1	1	E	4	January	1
Illinois	M	4	1	E	V	April	1
Indiana	D	4	1	E	4	March	1
Iowa	T cv	2	1	E	2	January	1
Kansas	D	4	1	E	2	March	1
Kentucky	C cv	1	1	A	4	July	1
Louisiana	C	1	1	E	4	January	1
Maine	T	2	1	E	1	April	1
Maryland	M cv	5‡	1	A	V	V	
Massachusetts	T cv	1	1	E	1–3	April	1
Michigan	T cv	1	1	E	1	April	1
Minnesota	T cv	2	1	E	2	May	1
Mississippi	C	2	1	E	4	February	1
Missouri	M	1	1	E	2–4	June	1
Montana	C	2	1	E	2	March	1
Nebraska	D p	4	1	E	2–4	April	1
Nevada	C	1	1	E	4	V	
New Hampshire	T c	1	1	E	3	April	1
New Jersey	T cv	1	1	E	V	October	1
New Mexico	C	1	1	E	2	V	

* C, county; T, town or township; D, dual; M, mixed; c, city; v, village; w, ward and borough; p, precinct.

† E, elected; A, appointed; V, varies.

‡ Tax commission may require annual reassessments. The process is continuous.

TABLE 82—*Continued*

State or District	Assessment Unit (Area)*	Assessment Interval: Realty (Years)	Assessment Interval: Personalty (Years)	Assessor: Selection†	Assessor: Term of Office (Years)†	Tax Day	
New York	T cv	1	1	E	1–3	July	1
North Carolina	D	4	1	A	1	April	1
North Dakota	T	2	1	E	2	April	1
Ohio	C	6	1	E	2–4	April	1
Oklahoma	C	2	1	E	2	January	1
Oregon	C	1	1	E	4	March	1
Pennsylvania	T w	3	1	V	V	September	1
Rhode Island	T c	1	1	E	V	June	15
South Carolina	D	4	1	A	2	January	1
South Dakota	T cv	1	1	E	V	May	1
Tennessee	C	2	1	E	4	January	10
Texas	C cv	1	1	E	2	January	1
Utah	C	1	1	E	4	January	1
Vermont	T	4	1	E	3	April	1
Virginia	C	5	1	A	V	February	1
Washington	M	2	1	E	1–2	March	1
West Virginia	C	1	1	E	4	January	1
Wisconsin	T cv	1	1	E	1–2	May	1
Wyoming	C	1	1	E	2	April	1

I. THE UNIT AREA OF ASSESSMENT

The unit area of assessment is much more important than has been generally recognized. It determines the number of the assessors, and, to a large extent, the degree of their skill and training. If the unit is very small, e.g., the township, the amount of work to be done is regarded as warranting the employment of the assessor for only a few weeks each year. He will, for this reason, tend to be of less than the average caliber and training.

The county is the assessment unit in twenty-two states. There is a group of southern states in which the political tradition of the county as a unit of administration is strong. In six states, reported in Table 82 as having dual assessment areas, the county is also the principal unit, though smaller units within the county enjoy varying degrees of au-

tonomy. In four states, reported as having "mixed" areas, the county is also increasingly the dominant unit. The county unit is desirable because it facilitates the employment of a permanent assessor; this usually is impossible with a smaller unit. In some of the states having the county unit of assessment, some elective official is ex officio assessor, devoting only a part of his time to the assessment.

In a smaller group of sixteen states, the town or township is the unit. They are New England states, or states in which the New England political tradition has dominated. In the former, the county is almost nonexistent as a political entity. Developments have changed the unit in New England only in one respect, namely, the growth of many towns into cities. In these cities the duties of the assessor have greatly increased; and it has been necessary and inevitable that the assessment area be extended to include the entire city, though it may cover the area of several towns.

In some states of the Middle West the township has been considerably modified, with reference to its use as a unit of assessment. Some of the assessment functions have been delegated to county officials, who, however, have seldom been given the name of county assessors. Thus, in Minnesota the county auditors perform a large part of the assessment, but not enough to deprive the local assessor of his autonomy. The same is true generally in the north, as far west as the Dakotas.

In Illinois, Missouri, and Washington, three of the states reported as having "mixed" units, the complexity is a heritage of the interaction of the New England and southern political ideas at the time of their organization as states. A part of Illinois, for example, was organized on a township basis, and the rest, a few counties steadily declining in number, in the southern part of the state, without township organization. Special arrangements have been made for Cook and St. Clair counties, containing Chicago and East St. Louis, respectively. The explanation is similar for Missouri and Washington. In Maryland some counties are assessment units, while in Baltimore and other counties the areas are the towns and cities.

The six states reported as having dual assessment areas have divided the functions between the local assessor and the county assessor. Thus in Kansas the county clerk, who is ex officio assessor in most of the

counties, must appoint the township trustees as his deputies. In Nebraska, precinct assessors are provided in some counties. In North Carolina a "list taker" of the town works with the county supervisor. In Arizona, South Carolina, and Indiana, a local board of assessors works with the county assessor. The functional division in these six states thus runs in the same direction as in the states having an original township organization, where the county auditor has gradually been given the task of assessment.

In most states the property in the county is assessed but once. In some states however, the creation of city, village, or borough assessors has resulted in a double assessment. Such is the condition in some counties in Missouri. In New York the school districts may assess the property for school taxes, though in practice the work is usually done by the municipal officers, who must assess for municipal taxes. This practice of overlapping assessments is not justifiable on any ground except that of political expediency.

In every state the cities have special methods. In the older states special acts sometimes apply to certain cities only. This is notably true of old municipalities such as Baltimore and New York. Elsewhere the provisions take the form of general laws applying to cities of specified classes. The substance of the special provisions is that the cities have obtained a large measure of autonomy in respect to property assessment. And in the cities the assessment and the organization of the assessment bureau or department have reached their highest development.

There is no sentiment in favor of adopting the township unit. But there has been and is a pronounced, though not a very rapid, movement in favor of the larger county unit. In Minnesota one of the first recommendations of the new tax commission in 1907 was for a change from the local unit to the county unit:

A careful examination of the situation as it develops during the making of the assessment from the time of the election of the local assessor until the records pass into the custody of the county board of equalization brings the conclusion that the first difficulty is in the conditions surrounding the local assessor. It has already been shown that the conditions belong to the machinery of assessment now in vogue and cannot be changed except as the making of the assessment is changed. Fully persuaded of this view, the com-

mission believes that a county assessor should be substituted for the numerous local assessors now engaged in listing the personal and real property in the state for taxation purposes. The first object to be obtained by this change is uniformity of assessment. The impossibility of securing this desirable feature of taxation under existing conditions has been shown in the fifty years of experience in this state with the local assessor system.[1]

After nearly twenty-five years of agitation, this recommendation is still unheeded. Equally conspicuous and ineffective movements toward making the county assessor the central and responsible figure in the assessment have been made elsewhere from time to time. Typical of the disposition, but not necessarily typical of the concrete recommendations made, which of course grew out of different local arrangements, are these proposals of the Kansas tax commission:

First. Create the office of the county assessor in all counties and devolve upon such officer exclusively the duty of assessing all property in his county.

Fourth. Repeal all provisions which now require the services of the township trustees or other persons as deputy assessors.

Fifth. Enact suitable measures for the employment of needed help in the work of the county assessor; he should be given authority to employ assistants to work under his direction, the total compensation to such assistants to be reasonably limited by statute.[2]

The long-drawn battle for a county assessor is well exemplified in Iowa. In that state, in 1839, a county assessor was to be elected annually; but in 1843 there was to be elected annually one assessor in each township or election precinct. In 1845 the state returned to the county assessor system, but in 1853 the other system was reinstated. This did not prove satisfactory, for the following year the state auditor recommended a return to the county assessor, a change effected in 1857, with the term of office lengthened to two years. But in 1862 the final return to township assessors was made, the term of office still remaining at two years. It appears, however, that in the periods when the law required a county assessor, the sheriff served ex officio as assessor. His deputy, by whom probably most of the actual work was done, was appointed either by the sheriff, subject to the approval of the county commissioners, as in 1845, or by the county judge, as in 1857. The town-

[1] *Report of Commission, 1908.*

[2] *Report to the Legislature, 1913.*

ship assessor has been so firmly established in Iowa since 1862[1] that successive vigorous attempts to abolish him, notably that of the legislature of 1931, have proved unsuccessful.

II. FREQUENCY OF REGULAR ASSESSMENT

It will be noted from Table 82 that personal property is assessed every year. Annual assessment would seem to be indispensable for personal property, but there are exceptions. Thus in Sussex County, Delaware, returns of personal property as well as of real estate are required only every six years. But the exception is not very significant when it is remembered that practically no personal property is taxed in Delaware.

In exactly one-half of the states, real property is required to be assessed every year. In eleven others it is to be assessed every two years. Thus nearly three-fourths of them find it necessary to assess real property once in each two years or oftener. In Pennsylvania, the interval is three years; in seven states it is four years; in Maryland and Virginia, five; in Ohio, six; in Connecticut, ten; and in Delaware it varies among the counties from one to six years. In those states in which the assessments are not annual it is necessary to make adjustments in the list for destruction or construction, or for other major changes. In Kansas any county may reassess in any year; and in Maryland and Indiana the tax commission may require annual reassessment.

The short intervals between assessments were not characteristic of earlier decades. The Maryland tax commission of 1888, in justifying its recommendation for an annual assessment of personal property and an assessment of real property every six years, said:

> It has been nearly twelve years since there was a general assessment in this State and that fact alone would seem to indicate that an assessment is absolutely necessary; but with such long intervals between assessments it is impracticable when one is made to have the work done skillfully. There is no one familiar with valuation of property for taxation; hence, when the assessment is completed it is liable to be very imperfect and unequal. An annual assessment of personalty will keep the assessors familiar with their work.[2]

[1] J. E. Brindley, *History of Taxation in Iowa*, especially pp. 1–44. Cf. also W. A. Rawles, *Centralizing Tendencies in the Administration of Indiana*, especially chap vi.

[2] *Report*, pp. 78–79.

The commission then quoted from the report of the tax commissioner to the General Assembly:

By changes in business and consequent changes in the possession of personal property, a great deal of such property is lost every year to the basis of assessment, as the new owners seldom appear to have themselves charged, while the former owners either become irresponsible, or, if responsible, invariably apply for a credit for the amount with which they have parted. Until we can have some method by which the assessment of personalty can be reviewed each year by trained assessors and the work systematically done, this will always be a source of loss to the basis of taxation.[1]

The question of the frequency of the assessment was formerly a matter of spirited controversy. At one time Maine and Massachusetts had provisions in their constitutions requiring revaluation every ten years; and Michigan, New Hampshire, South Carolina, and Virginia similarly required a revaluation every five years.[2] In Ohio, until recently, "revaluations" were not made oftener than every ten years.[3]

It is not possible to ignore changes in value or in substance during the interassessment years, even though the interval is only two years. Depreciation and destruction, as by fire or flood, require relief, especially if there is uninsured loss. On the other hand, it is not feasible to take account of every trifling change, for changes occur every year. Hence a minimum change is usually required to warrant an adjustment. Nebraska, unless the change by destruction or construction amounts to at least $100 in value, ignores it. Where this is not the law, administrators usually adopt a similar rule.

Dangers lurk, however, in infrequent assessments, because it has been a general practice to limit the amount of revenue that the smaller political divisions may collect, to a certain percentage of the assessed valuation. The revenue of many school districts for the years 1919, 1920, and 1921 was limited by assessment of 1918 or earlier. But shortly after that assessment was made, commodity prices and salaries rose rapidly and, with the arbitrary legal limit set upon the rate, many districts found themselves legally barred from raising the sums necessary for efficient performance of their functions. It is usually deemed

[1] *Report of State Tax Commissioner*, p. 185.

[2] R. T. Ely, *Taxation in American States and Cities* (1888), Table facing p. 396.

[3] E. L. Bogart, *Financial History of Ohio*, pp. 208–12 ff.

necessary to a fair allocation of the tax burden that the assessments be made, if not annually, at least often enough to register appreciable changes in value, if the tax is to be based on the value. In periods in which the price level fluctuates violently, this is especially important. If the tax were in law, as it tends to be in practice, a tax on realty only, it would be possible to administer it even though the intervals between assessments were long. Such has been the experience with many of the cadastral property taxes in Europe, and in Japan, China, and India.

The cadastral system, unfamiliar in the United States, is the standard system of administering real property taxes in Europe; it has the advantage of simplicity and economy of administration. An inventory is made carefully and completely on the basis of which taxes are levied for an indefinite period. It is necessary only to record changes of ownership and to change the rate if the yield is to be changed. The tax against any parcel is certain, relative to any other parcel in the district. That feature is valuable. The tax is not currently proportional to the value of the property, but is rather a known charge thereon, which is capitalized. The real burden or relief comes when, after many years, a revaluation has to be made.

Only recently have violent changes in land values occurred in Europe. In the United States, however, this has been the normal condition, and adoption of the cadastral system has been impossible from the outset. It was necessary to levy taxes at the very beginning of settlement, when land had little or no value. A domesday book which ascertained the taxpaying capacity of land as being zero was useless. The cadastral system is practicable only in a country with property values well established, and then only so long as they remain stable.

To a certain extent the entire discussion of the proper length of the interassessment interval is beside the point. There ought to be no interval. To be sure, the value as of the tax day must be ascertained, since the annual tax must be based on market value as of a uniform date for the entire taxing district. But the process of determining that value ought to be continuous. The Maryland commission struck the proper note when it said that with the long intervals it was impossible to maintain a competent staff of assessors. But if this is true of a ten-year interval, why is it not also true of a four-year or a two-year, or even a one-year interval, where the work of the assessing staff is dis-

continuous? It will not suffice "to keep the assessors in practice" to have them make annual assessments of personalty, because the assessment of realty is becoming a specialized task.

III. THE ASSESSOR

Typically, the assessor is elected. Exceptions occur where township and county assessors are appointed. In South Carolina the township assessors are appointed for two years by the governor of the state, on recommendation of the legislative representative from the district. Much better is the practice of the city councils in South Carolina of appointing, also for two years, the city assessors. An interesting variation occurs in Kentucky, where the county tax commissioners are elected by popular vote; but, before they can be eligible for election, they must have been so certified by the state tax commission, after examination. The 1922 efficiency commission regarded this arrangement as desirable as can be expected at present.[1] It is reported to have decreased the political turnover of county assessors about 50 per cent, yet it is not a perfect device. Competent persons appear to be scarce in certain counties; the elective method still enables an inexperienced man to displace one who may be efficient but unpopular; the state tax commission cannot control the county tax commissioner, since the consent of the circuit court is necessary for his removal. The efficiency commission recommended a system under which the assessors would be appointed, under indefinite tenure and subject to civil service rules, by the state tax commission.

Significant exceptions to the practice of election occur in cities. There, because the problems of assessment have become complex, the assessor generally comes into office by appointment of the governor, mayor, city council, or some other body, and heads a permanent department with employees subject to civil-service rules. Probably the best example is that of the city of New York. The department of assessment and taxation consists of three members appointed by the mayor. This body then appoints its own deputies and clerks. A businesslike arrangement exists in Denver, where under the county-city government the director of the department of finance is ex officio assessor.

[1] *Report*, Part II, *Revenue and Taxation*, p. 37.

Efficiency has been hampered by the brevity of the assessor's term of office. No sooner has he acquired the merest rudiments in the practice of assessment than he may be out of office. In some states he may not succeed himself; and the prevalent preference for rotation in office may bring about the same result.[1] The short tenure results in wasting such experience as is gained and discourages persons with ability and training from seeking the office. There has seldom been sufficient control of the assessor. He is subject to prosecution for malfeasance or nonfeasance in office, as are other public officials; but this remedy is in practice unavailable. In Georgia, and Colorado, upon complaint, he is removable by the governor. In Arizona and Idaho he may be removed by the county commissioners. Sometimes the power of removal is vested in the county or circuit court, as in Illinois, Missouri, Virginia, and, upon conviction, in New Mexico. In recent years the state boards of equalization and, still more recently, the state tax commissions have acquired in some degree the power of removal for cause, as in Nebraska and Kansas.

Another circumstance that has hampered the efficiency of assessment is the auxiliary character of the office. Whether the unit of assessment has been the township or the county, the office has often been held by some such official as the town supervisor, the county clerk, or the sheriff. The fact that the work of assessment has been concentrated in a few months of the year has contributed to this arrangement.

The auxiliary or dependent character of the office was formerly much more common than now. Almost every combination of offices has been tried, as will appear from a perusal of the history of any state.[2] It would be interesting, if possible, to discuss the attempts to adjust the factors in the local assessment in order to insure an equitable valuation. The fiat of the tax levy is a legislative function, but the legislatures have often been loath to relinquish the administration. In the

[1] The method of electing the assessor does not always lead to a rapid turnover in office. Thus in Colorado in fourteen of the sixty-three counties there had been no change in the office of assessor during the ten-year period 1921–30; in thirty, there had been only one change; and in only one county had there been as many as three. The term of the Colorado county assessor is two years (Jensen, *Survey of Colorado State Tax System*, pp. 88–90).

[2] Cf. John E. Brindley, *op. cit.;* and E. T. Miller, *A Financial History of Texas.*

colonies, the allocation of the shares of the provincial tax to the towns was often the work of a legislative committee; it is even today in the New England states. In Pennsylvania, in 1693, the assessment of the colonial tax was assigned to any two members of the assembly within each of the respective counties; they were authorized to call to their assistance three justices of the peace or other substantial freeholders to act as deputy assessors.[1] The constables certified to the assessors the names of the taxables. In 1696 the legislative members gave up their part of the work, but the constables apparently continued theirs until 1873.

The penalties in effect against the assessor are much less numerous, less varied than those against the owner or his agent and, if that be possible, even less effective.[2] The assessor, as mentioned above, is punishable for malfeasance and occasionally for nonfeasance. He is sometimes bonded; this is a partial safeguard, but his most common failings are not remediable by bonding. Massachusetts early provided a fine of £5 against an assessor refusing to serve, and forfeiture of the entire sum apportioned to his town, or imprisonment if he had no property.[3] The practice, which had become regular in 1730, related to the colonial rather than to the local tax. Again in Texas, in 1840, the threat of a fine of $1,000 was supposed to induce the assessor to return the roll by the Fourth of July.[4] The assessment was for the Republic and not for the local tax. As a type of penalty for neglect or malfeasance, may be cited that of Illinois in 1872, of from $100 to $5,000, or one year in jail.

A demonstration of the ineffectiveness of penalties may be had from the experience of Vermont. In 1880 the law required the lists of personalty to be rendered and sworn to before the listers, who under severe penalties were not to accept them unless correct and complete. This was to bolster up the returns of personalty which had shrunk from $21,400,000 in 1866 to $15,000,000 in 1880. Despite the powers of the listers of doomage over property not properly listed, and the duty to

[1] T. K. Worthington, *Historical Sketch of the Finances in Pennsylvania.*

[2] For the penalties effective against the taxpayer, see next section below.

[3] Douglas, *Financial History of Massachusetts*, p. 70. This fine was only 40 shillings in the smaller towns.

[4] Miller, *Financial History of Texas*, p. 41.

impose a 100 per cent penalty, the listing did not improve. In 1908 the tax commissioner's agents inspected the lists. Many had failed to return any lists at all. Of the 113,000 lists examined, only 3,652 were legally prepared. It was estimated that the penalties of the listers for accepting improper lists would amount to $20,000,000.[1]

IV. THE ASSESSOR'S COMPENSATION

The bases of payment for the assessor's service differ widely from state to state, but they fall naturally into a few types, some of them characteristic of particular regions. For county and city assessors the most common basis is the straight salary, but this is unusual among the township assessors. On the whole, the salary is probably the most satisfactory form of compensation. Two circumstances, however, have in many states prevented its adoption. One is the intermittent or temporary character of the work; another is the desire to make the compensation serve as a stimulus to effective service.

The simplest compensation is the per diem type, by far the most common compensation for the township assessor. Usually it is too low, whether the amount is fixed by statute or set by local officers. Thus, until 1917, the per diem compensation given local assessors in the state of New York was only $2.00. After the passage of a law permitting the townships to pay more, practically none did so. Nothing is gained by local autonomy in this respect; it is better to have a standard per diem rate for the entire state determined by law. If the per diem allowance is an inducement to the assessor, it will probably induce him to make the job last longer, not necessarily to make a better assessment. It is probably an uneconomical form of payment, as is suggested by the earnest appeal of the Minnesota tax commission to the local assessors to work at least eight hours per day.[2]

The piece-rate practice of paying a specified sum per name listed is more common with the local than with the county assessor, and is undesirable in either case. In Arkansas a straight piece-rate of 20 cents for each name listed is in force. This does not tempt the assessor to loiter on the job; it induces him rather to get as many names on the

[1] Lutz, *The State Tax Commission*, pp. 545, 546.

[2] *Assessor's Manual*, 1920.

roll as quickly as possible regardless of how well the assessment is made. Moreover, a straight rate of this sort has the disadvantage of underpaying the assessor in a thinly populated county, unless, indeed, he makes the assessment without seeing the property, and, possibly, of overpaying him in a densely populated county, where properties and taxpayers are close together. The form of piece-rate payment used for the county assessors in the state of Missouri is evidently designed to avoid this difficulty. The rate for the first 1,000 names is 25 cents per name; for the next 1,000 names it is 20 cents per name; and for each additional name, 15 cents. The rate in West Virginia is $30 per 100 voters listed, for the first 3,000 names, with declining rates for succeeding thousands; but it is provided that the total payment to the assessor shall not be below $1,000 nor over $2,100. Under such a system the temptation to place many names on the roll regardless of the correctness of the assessment must be strong. The simplest thing to do would be to copy the tax roll of the preceding year. Into this habit numerous assessors have fallen, but the practice is not peculiar to the states paying piece-rate compensation.

Two variants of what may be called the commission form of compensation may be distinguished. In one, the assessor is paid a percentage of the amounts listed; in the other, a percentage of the amount actually collected. These forms possibly stimulate full assessment, but not necessarily equality among taxpayers.

Perhaps the most complex system is found in Alabama. If the total state tax on the roll is not over $12,000, the assessor receives 8 per cent on the first $1,000, 4 per cent on the second $1,000, and 2 per cent on the remainder. Where the roll exceeds $12,000 the compensation is the same up to $12,000; over $12,000 and up to $60,000, 1½ per cent; on the remainder, 1 per cent. A similar commission is paid on county taxes. In addition there are other fees—for instance, a fee of 5 per cent of back taxes collected, and also a fee of 25 cents for the issuance of each notice of increase of property valuation by the court of county commissioners. The assessor is entitled to this compensation out of the first moneys collected, and the state and the county each pays its share.

In Texas the compensation of the assessor is based on the assessed valuation, not on the amount of taxes collected. It is 5 cents for each

$100 of the first $2,000,000 valuation, 2.25 cents on each $100 additional up to $5,000,000 valuation, and 1.7 cents on each $100 of the balance. The assessor also receives 5 cents for each poll listed. The state pays for the assessment of the poll and for half of the property roll, the county paying the remainder. It makes no difference to the Texas assessor, as far as the amount of his salary is concerned, whether or not the tax is collected. He is like a salesman who receives his commission on the orders turned in, whether they are good or bad.

The commission system, especially in a developing state, meets changes with difficulty. Like the fee system of compensating other public officials, it raises other objections. It is difficult to adjust from year to year in communities where the valuation varies widely, as frequently happens where a single special crop furnishes the bulk of taxable property. In colonial Virginia, where prosperity depended upon the tobacco crop, in good years there was great competition for the position of sheriff or justice of the peace because of the great profit to the ex officio assessor and tax collector, while in poor years assessors and collectors could not be had, because of insufficient compensation, with the result that whole counties went untaxed for years.[1]

The experience of Texas is striking. Up to 1840 the assessor was appointed by the county court from candidates who made sealed bids for the office. He was appointed "who seemed best calculated to perform the duties and protect the public interest," and the compensation was such as was specified in the bid. The compensation thereafter, up to 1848, was an elaborately graduated scale of commissions, beginning with 8 per cent upon the first $1,000 of taxes assessed and ending with 1 per cent on all sums in excess of $10,000. In 1848 the rates were halved. These sums were payable separately by the state and county, each for its own tax. The constitution of 1869 made the justices of the peace assessors, with a flat commission of 5 per cent of the assessed taxes, but with a maximum of $2,000; at this point the commission abruptly stopped, and there was a strong tendency for the assessment to do likewise. An amendment of 1875 returned to the original system of appointment by the county court. However, the constitution of 1876 established the present system, under which a county assessor is elected for two years, and there are separate assessors for the cities.

[1] Ripley, *The Financial History of Virginia*, p. 43.

The compensation is graded from 5 cents to 1.7 cents per $100 of taxes assessed, a scheme that is justly criticized as discouraging initiative where it is most needed—for the later and most difficult parts of the assessment.[1]

V. THE TAXPAYER'S RESPONSIBILITY

The taxpayer's responsibility for the assessment extends, if he is legally competent, usually to the listing and sometimes to the valuation of his own property. A legally competent person may be required to list and value much property that is not his own. Guardians, executors, administrators, receivers, trustees, and others responsible for persons temporarily or permanently legally incompetent, must list the properties of their wards. This duty is often exacting and complicated. Some of the states in their early days suffered losses in revenue from failure to define the responsibility for listing such property. Thus, in Texas, the crudeness of the early laws is shown by the fact that not until 1840 were three separate inventories required to be filed. The first related to property owned, the second to property controlled as guardian, executor, or administrator, the third to such property as was in hand as agent or attorney.[2]

Agents or attorneys are frequently in charge of property on the tax day; hence doubt may arise as to the responsibility for listing such property. This problem is closely bound up with that of the place where the property must be returned and taxed. In general, such property as is temporarily held is listable, not by the agent, but by the owner, while such property as is not immediately to be moved into control of the owner but has acquired a situs away from the tax jurisdiction of the owner must be rendered by the agent.

The manner in which the assessment is performed varies considerably. Two major modes of procedure may be distinguished, although in some instances the methods are merged. In one, the assessing official or his deputy is present at a specified place on stated days, and there receives the lists of taxpayers. In the other, the assessor himself assumes the initiative and sometimes interrogates the owner, or from other sources obtains the information necessary. In general, the self-assessment method has been favored but gradually, though irregularly,

[1] Miller, *op. cit.*, p. 229.

[2] Miller, *ibid.*, pp. 40 ff.

this procedure has been displaced by the latter, when experience has demonstrated that for successful assessment a great deal of initiative and authority must be lodged in the assessor. Thus in 1855 in territorial Kansas "a crude form of self-assessment was provided, whereby the county assessor was to designate a certain point in each township where the people were to deliver to him written lists of all their property. It is almost useless to add that this impotent system soon fell into disuse."[1] Self-listing probably prevailed at first partly because it is much simpler and less costly to maintain one official in a county for a short time to whom all taxpayers must go to list their taxables, than to provide enough officials to seek out every item wherever located; and partly, too, because, in those pioneer days, that system was more satisfactory than it would be today.

Self-assessment was never characteristic in some states. The colonial assembly of New York instructed the assessors to "proceed from house to house." Self-assessment under oath was never the practice in New York.[2] Obviously, in the northern and middle colonies, where the township or town assessor prevailed, the assessor could canvass every taxpayer; this method was less practicable for the assessor of the larger county unit, unless an organization with several deputies was provided. Nevertheless, even in many of the former states, self-assessment with certain safeguards was the rule, just as it is today. Thus, in Vermont, from the beginning the listers warned the owners to give in their lists. Where there were no lists or where they were incomplete, the assessors were authorized to "fourfold" the actual amounts that should be turned in; and, as a special inducement, one-half of the tax on the "fourfolds" was to go to the assessors.[3]

Despite all the safeguards added, the practice of self-assessment proved ineffective, as is shown, for example, by the experience in Wisconsin: "The assessment law of 1849 trusted too much in the honesty of the taxpayer. Assessors were obliged to accept the valuations of personal property that were sworn to by the owners or their agents. Valuations of real estate that were sworn to by the owner and a disinterested freeholder of the same town or ward and of no relation

[1] J. E. Boyle, *The Financial History of Kansas*, p. 18.

[2] Schwab, *History of the New York General Property Tax*, pp. 62–63.

[3] F. A. Wood, *History of Taxation in Vermont.*

to the owner were final."[1] The self-assessment led, in Wisconsin as everywhere else, to incomplete assessments. Another difficulty with self-assessment arises from the tendency to delay as long as possible, as concisely stated by C. G. Hanna, assessor of Chaves County, New Mexico: "We notify the people that we shall be ready to see them in our office on the first day of January. A few come in the first week, a few more the second, but three-quarters of them put it off until the last week and then come crowding us."[2]

Texas offers an interesting example of the changes that took place in the methods of listing. Until 1846 the assessor was to receive the lists at appointed places, the duty of the owner extending both to the inventory and the valuation. Under the 1836 statute, however, the assessor was required to call in two citizens to value such property as appeared to him to be undervalued. In 1839 this duty was placed upon two citizens and the chief justice of each county. But in the statute of 1840 only sickness or unavoidable absence excused the owner from appearing in person to list his property; if there was no return the assessor was to call on the owner and was to receive the proceeds of a $10.00 penalty therefor; if the owner was not at home, the assessor left notice for the list to be returned at a stated time; and in case of noncompliance the property was "doomed" and the tax doubled. After 1846 the assessor was required to call upon the owner and receive the list, which was to include both the inventory and the valuation. In 1848 only the inventory was to be given under oath; and, in a case of disagreement with the owner as to the valuation, each selected "a respectable freeholder," who jointly were to choose a third, and these three were to fix the final valuation by a majority decision. In 1860 there was a return to the practice of notifying the owners, by publication of notice, of the place and date for receiving lists. On those who did not attend, the assessor was to call, receiving therefor a fee of $1.00 for each call, except calls on widows for which there was no fee.[3]

The penalties are stricter for nonlisting than for improper valuation, obviously because valuation is a matter of opinion while the listing is a matter of recording ascertainable facts. Moreover, once listed, the property will be taxed to some extent; while, if it is not listed, there is

[1] R. V. Phelan, *The Financial History of Wisconsin*, p. 136.

[2] *Proceedings*, 1920, p. 369.

[3] Miller, *op. cit.*, pp. 99–111.

no liability for tax. Hence an action for perjury does not usually lie for misstatement as to value, while, on paper but seldom in practice, it will lie for misstatement as to quantity. Also the value given by the owner is seldom binding upon the assessor, who in some states must make his own valuation. Most states require the owner to take an oath that the list is true as to quantity; less often does the oath apply to value. Ohio, among other states, requires that a person having nothing to list shall take an oath to that effect.

Severe penalties exist for refusing to list property, for listing it incorrectly, for refusing to take the oath, or for concealing, removing, or misrepresenting the ownership or control of property or its tax liability. The severity of certain penalties may be seen from the provision enacted in the Territory of Illinois in 1812 that, in case of fraudulent failure to return taxable property, all the taxable property should be forfeited to the state.[1] This unreasonable penalty lasted only till 1814, when it was replaced by a provision trebling the tax.[2] A few other cases of forfeiture have been found, but none is now believed to exist.[3]

Twelve states provide that by refusing to list his property the taxpayer forfeits his right to be heard by the board of review or equalization on a complaint of overassessment. Montana seeks the same result by providing that if the taxpayer should conceal, remove, or otherwise withdraw property from taxation, the assessor shall assess it at not to exceed ten times its true value, such valuation not to be reduced by the board of equalization. In contrast to this severe penalty, note the moderate provision of New Jersey to the effect that if a taxpayer refuses to make a list of his property or makes a false list, the assessor is to place the property at the "highest value at which he has reason to believe it may be placed." Another penalty applying to only one type of prop-

[1] R. M. Haig, *A History of the General Property Tax in Illinois*, p. 44.

[2] The present penalty of Illinois is still severe: for failure to file a return, the assessor is to add a 50 per cent penalty plus a fine of $200; for filing false returns, a $5,000 fine and imprisonment for one year. When the miserable returns of personal property in Illinois, referred to in chapters xi and xii, above, are recalled, it seems that heavy penalties are not very potent as stimuli to full and accurate assessment.

[3] It is, however, still deemed necessary specifically to forbid such forfeiture. The constitution of Louisiana states that "there shall be no forfeiture of property for the nonpayment of taxes . . . ." (Art. x, sec. 11).

erty occurs in Tennessee, where failure to list any note or chose in action deprives the holder of the right to bring suit in any court in Tennessee for its collection. If generally enforced, however, such a penalty would interfere with the ready negotiability of credit instruments. Several states provide no penalty except those flowing from the commission of perjury. More often, the action for perjury is in addition to other penalties. The risk of perjury action doubtless exists in all the states where an oath is required.

Severe pecuniary penalties or fines are the principal feature of the legal stimuli to complete listing and valuation. They occur in various forms. Missouri furnishes a typical instance. For refusal to take the required oath, a fine of from $10 to $1,000 is imposed; the penalty for failure to furnish the list is doubling the assessed value of the property; and, for returning a fraudulent list, trebling the value. The Kansas penalties are somewhat more severe. The penalty for failure to submit a list except in case of sickness or necessary absence, or for submitting a false statement, is a fine of from $50 to $5,000, and an increase of the assessment by 50 per cent. In Ohio, upon refusal of the taxpayer to list his property, the assessor must list such as he can find, and the county auditor is then to raise the value thereof by 50 per cent; for a false return, also, 50 per cent is added. The penalty prescribed by the North Carolina law is much simpler, namely, a fine of $10 for each $100 worth of property withheld.

It would be easy to make a much longer list of the penalties. In such a list there would be many ingenious legislators' schemes for compelling taxpayers to list their taxable property. In many states, however, the fines are small; and in a number of other states there are no fines, the only penalty being prosecution for perjury or misdemeanor. But all these statutes, liberal or bristling with penalties of every sort, are ineffective. Rarely are attempts made to apply them.

VI. THE POWERS OF THE ASSESSOR

Since the assessed valuation is the basis upon which the taxes are apportioned, the assessor is the public official who ascertains one of the two sets of facts upon which depends the respective contributions of the several taxpayers. It is, therefore, not surprising that legislators should, on the one hand, have withheld from the assessors such powers

as they feared would be arbitrarily used, and, on the other hand, accorded them only those powers deemed indispensable for them. According to whether the legislature was predominantly concerned with protecting taxpayers against arbitrary treatment by the assessors or with protecting the public treasury against tax evasion, have the powers of the assessors been sparingly or freely granted. And as these motives must have changed from time to time, and differed from place to place, we should expect to find an inconsistent and at times unreasonable extension or restriction of the powers.

Like the Englishman during the English experiences with the "tenths" and "fifteenths" on movables,[1] the American taxpayer would prefer to be "master of his own valuation." While the legislatures share this preference, they are constantly faced with the necessity of extending authority to prevent that palpable tax evasion which has characterized the general property tax throughout its history. Sometimes the assessor occupies a merely clerical position, being required to be present at stated times and places to receive the taxpayers' lists and valuations.[2] At the other extreme no restrictions are placed upon the assessor—this is probably equally rare. Lutz states that in Vermont, in 1825, the listers were given practically unlimited powers of assessment of intangibles so long as they acted with "common care, skill and prudence."[3]

In general, the assessor has the right to view the property to be assessed, to enter buildings and examine them for the purpose of assessment. He can require the production of pertinent books and other evidence, a prerogative which to the local assessor is probably not of great practical value, since his ability to make use of such evidence is limited.

The assessor is not an isolated functionary. His work must articulate with that of other officials. He is usually supervised by one or more agencies. The township assessor is commonly supervised by some county official, such as the county auditor; and recently, in a general way,

[1] Cf. Dowell, *A History of Taxation and Taxes in England*, especially Vol. II.

[2] Thus in South Carolina the county auditor receives the returns and lists the property at owner's valuation, which he may not increase without authorization of the county board.

[3] Lutz, *op. cit.*, p. 12.

by some state agency, such as the state tax commission. The county assessor is generally responsible to the board of county commissioners or some county court, and to some extent to the state supervisory agency. The relationship in Kansas is interesting, as representing, in a way, both types. The deputy assessor may be suspended by the county assessor and, after a hearing before the tax commission, may be dismissed from office, for neglect of duty. The county assessor in turn may, upon evidence of incompetence or neglect of duty satisfactory to the county commissioners, be suspended from office and, after a hearing before the tax commission, dismissed; or the commission may, on its own initiative, order him to be tried and dismissed.

Upon the completion of his work, the assessor turns over his records to the county auditor, or to some other specified officer or body, for review, except in a few states, such as Massachusetts, where the assessor also performs the function of review. It is usually the duty of the county auditor to require satisfactory performance of the original assessment. Usually the assessor cannot draw his compensation until he presents affidavits certifying that the work is acceptably performed. But that requirement must necessarily refer to the form of the lists rather than to the degree of completeness of the list or the accuracy of valuation.

The extent to which the assessor has been deprived of help that could have been useful in achieving an accurate assessment is surprising. Public officers in possession of evidence useful for this purpose have often been unwilling, and sometimes forbidden to disclose it. Quasi-public and private agencies in possession of similar information have sometimes been restrained from disclosing it. Assessors cannot avail themselves of information known to banks and other organizations respecting bank deposits and other property.

In the assessment of real property, it would seem that the evidence of ownership of real property found in the surveyor's and the recorder's books ought to be available to the assessor. But, in Texas, not until 1840 was the county surveyor required to furnish to the assessor any information from county surveys, and the act of 1840 making this requirement was repealed in 1841. Apparently a remedy for nonassessment was here rendered unpopular because it worked.[1] One reason for

[1] Miller, *op. cit.*, p. 48.

this apparently unreasonable restriction may be found in the inaccuracy and incompleteness of the public records. Another probably was that the assessor, with his limited time and compensation, was hardly in position to make use of such records as existed.

The judge of the probate court, or some officer in a similar capacity, may be required to provide the assessor with a list of taxable estates. In Kansas a fee of 10 cents for each name submitted is due to the judge. It is not entirely a matter for rejoicing that this avenue of information is available, so long as there is no corresponding means for apprehending similar property not publicly recorded. Moreover, within this class of property there is opportunity for discrimination, for there are at least three possible jurisdictions in which such property may be made taxable, namely, the physical location of the property, the residence of the beneficiary, and that of the fiduciary.

VII. TAX INQUISITORS

The assessors, with a few conspicuous exceptions, have usually been unreasonably limited in their power to employ assistants. In a few states, notably Ohio, Iowa, and Kentucky, there grew up a system of employing "tax ferrets," "tax inquisitors," or "revenue agents," for the purpose of securing adequate assessments. Because of the publicity they have received, and because of the lessons they have yielded, they must be discussed briefly.

The basis of the inquisitorial system is the power of the assessor or some other official to employ special agents to aid in assessing omitted or undervalued property after the regular assessment has been completed. The system is stronger if the agents can compel evidence under oath, from outsiders, and if authority is given to inquire concerning property omitted, not only during the current assessment, but during previous years.

It has been common for the county auditors of Ohio, Indiana, Minnesota, and other mid-western states to add omitted property and adjust the valuation of improperly valued property for the current year, and less generally, for earlier years.[1] In the Territory of Ohio, by the act of 1799, owners were required to render their property to the county commissioners; those refusing were fined $30 each, and their taxes were

[1] Lutz, *op. cit.*, p. 18.

doubled; any person giving evidence of evasion was to receive one-half of the proceeds of the fine.[1] In Illinois, the states' attorney was to receive a special fee of $20 for each conviction for fraudulent tax assessment, and also 10 per cent of all fines imposed in such cases.[2]

The beginnings of the Ohio tax-inquisitor system are not clear. In 1846 the assessor, failing to secure satisfactory listing from the owner, was to consult other sources.[3] The assessor might examine under oath any persons who, he might suppose, had knowledge of omitted or improperly assessed property. Should they refuse, he could through any justice of the peace compel testimony under pain of penalties for contempt. The county auditor might likewise summon witnesses and change the valuations of the assessor or add omitted property, and thereupon add 50 per cent to the amount discovered by the assessor or by himself. In 1876 the auditor was authorized to go back of the current assessment four years to assess omitted property. It must have been the practice of the county commissioners to employ private persons to ferret out omitted or improperly valued property prior to 1880, at the cost of the county, for in that year the legislature authorized the commissioners in Hamilton County to deduct the cost of such investigations proportionately from all the funds to which the revenue was to be distributed, whether to state, county, city, town, or any other district. This was made optional for four counties in 1885, and for all counties in 1888. The compensation to the inquisitors, however, was not to exceed 20 per cent[4] of, and, was to be paid exclusively from, moneys actually paid in as a result of the activities of the inquisitors.

On the basis of this legislation, there grew up a system of informational activity which extended at its height to more than half of the eighty-eight counties in the state. The county commissioners contracted with individuals or firms, who sometimes held contracts for several counties, and set up detective bureaus and interbureau organizations for exchange of information. When obtained, information was presented to the county auditor, who would then summon the owner to show cause why he should not pay the tax and the penalty. Usually

[1] Bogart, *op. cit.*, pp. 182–83. [2] Haig, *op. cit.*, p. 143.

[3] For this subject the principal source has been: T. N. Carver, "The Tax Inquisitor Law of Ohio," *Economic Studies*, No. 3, pp. 167–212.

[4] In the four counties mentioned in the law of 1885 it was 25 per cent.

the matter was settled by an agreement as to how much was actually due. If the owner did not appear, he was summoned under penalty for contempt, and the inquisitor acted as prosecutor. It then remained for the auditor finally to determine how much to add to the assessment. The auditor received a fee of 5 per cent of the amount added.

In Iowa[1] the system was similar. It appears, that prior to 1900, the county commissioners had been employing "ferrets" here and there. But the compensation was then limited to 15 per cent of the taxes recovered.[2] Brindley distinguishes three kinds of ferrets: (1) the "birds of passage," who spent only a few days in a county, then passed on to another, everywhere "skimming the cream;" at the other extreme, (2) those who stayed year after year and worked systematically and conscientiously to cover all cases; and (3) those who covered several counties with several contracts, keeping their employees at work as the business would warrant.

In Kentucky alone[3] the system survives in its most developed form. Formerly there might be one "revenue agent" in each county and four at large, all appointed by the auditor of public accounts to discover cases of nonlisting and flagrant undervaluation, and bring suit for recovery of state and local taxes. Their compensation consisted of a 20 per cent penalty on the amount collected. Owing to vigorous opposition there is now only one revenue agent, who is appointed by and subject to the control of the state tax commission, and who selects his own corps of assistants. The compensation is now limited to 75 per cent of the 20 per cent penalty. The tax commission in 1923 believed that, thus limited, there were no important objections to the revenue-agent system. The efficiency commission, reporting in 1924, however, recommended its abolition.[4] First, it would be rendered unnecessary by adoption of certain other recommendations relating to the assessors and the tax commission. Second, the profit motive might lead to un-

[1] J. E. Brindley, *op. cit.*, pp. 310–55.

[2] The right of the counties to contract and pay for such services had been decided. In one case (*Shinn* v. *Cunningham*, 120 Iowa 385, 386), 50 per cent was declared not unreasonable, considering the peculiar difficulties of this kind of investigation.

[3] In Tennessee, Georgia, Oklahoma, Florida, Texas, and other states it occurs in less conspicuous forms.

[4] *Report, No. 2, Revenue and Taxation*, pp. 42, 43, 93.

equal exploitation of cases that would yield large rewards. Finally, the revenue agent made no report as to his "earnings," thus leaving the state in the dark as to whether 75 per cent of 20 per cent penalty constituted suitable compensation. Such service as the revenue agent performs might properly be made a part of the work of the tax commission.

The principal argument in favor of the tax ferret system was, of course, that it brought to light much property that would otherwise escape. It is a matter of record that the recovered property ran into millions annually. Perhaps the best evidence of its effectiveness was the bitter antagonism of those who had been compelled to disclose large amounts.

Against the system it was argued, first, that it was inquisitorial.[1] But so is any system that does not leave the assessment to the taxpayers. Only evaders are caught in the net, while the honest taxpayers are relieved of an unfair burden. Should not the lawbreakers, potential and actual, put up with some inconvenience to relieve honest persons of unfair burdens? If the law itself is bad, the proper remedy is to change it. Second, the ferret system was alleged to be confiscatory, at least as to intangibles. But the system per se did not make the tax confiscatory. The tax is no more confiscatory on intangibles that would escape except for the ferrets, than on those rendered without their work. If those too honest or too ignorant to evade the law can endure its confiscatory character, those who attempt to evade it have no just cause for complaint. Third, it was said that the ferrets aimed chiefly at intangibles, and that, since the tangible property on which these securities are based has already been taxed, to tax the securities also would be double taxation. That is a correct analysis; but it would seem that the remedy is by exemption rather than evasion.[2] This argument is against the tax system, not against the ferrets.

Fourth, in Iowa it was charged that the ferrets sought out widows

[1] "It is needless to point out how abhorrent such a system is to the spirit of liberty which we have inherited from our fathers. The trade of an informer has been for centuries a hateful one to men of our race. Such an invasion of the privacy of life is shocking to any one who appreciates the traditions of English liberty" (E. A. Angell, "The Tax Inquisitor System in Ohio," *Yale Review*, V, 350–73).

[2] But only as to intangibles that are completely representative. As to others, exemption is not the proper remedy.

and orphans and mulcted them by bringing their property to light in relatively much greater amounts than the property of others. Whatever foundation there may have been for such charges was probably due to the fact that the ferrets sought out estates in the probate courts because there omissions were easily discoverable. But if the probate judges are required to furnish lists of names of administrators, the escape of this class of property is already well-guarded against. Quite different is the complaint from Ohio, to the effect that the inquisitors devoted all of their time to a very few wealthy men, and to the holdings of stocks and bonds of these few.[1] The real grievance probably was that the ferrets sought the cases that would yield the greatest and surest return for the labor and expense involved, leaving the more difficult and less profitable cases undisturbed.

Fifth, it was charged that the operations of the ferrets drove capital out of the state. Wealthy tax-dodgers might be caught once, but not often, for they would leave the state. There may have been some foundation for this contention, but Carver was unable to discover adequate proof, one way or the other. Finally, it was claimed that the ferrets were ineffective—that they did not, in fact, increase the tax base. If they caused some property annually to be put on the roll that would not otherwise have been placed there, it was said they would diminish pro tanto that part rendered voluntarily. The contention can never be proved or disproved. But if true, it proves that the state cannot enforce its tax laws. It would then appear wise, rather than to be bullied annually by the tax-dodgers, to exempt such property as is taxable in practice only to those who voluntarily or ignorantly tax themselves.

There is nothing revolutionary about the employment of special agents upon a contractual basis to discover omitted property. But it would appear that the service ought to be a regular part of the assessor's duties. The commission form of compensation is open to abuses and objections. It may be added that the employment of special revenue agents is analogous to the employment of experts to appraise, or aid in appraising, particular forms of property that are difficult to assess. In the latter case, however, the assessor or the county board may employ assistants, but the responsibility of assessments cannot be delegated.

[1] Angell, *op. cit.*, pp. 350–73.

VIII. OMITTED PROPERTY

As soon as the assessor's lists are returned, the data therein acquire a weight quite out of proportion to the importance they appeared to enjoy while they were in the making. Before the courts, in cases of contested assessments, the presumption is strong that the assessor is right. Mere errors in judgment of the assessor will not invalidate an assessment. Wilful and intentional discrimination must be shown. The listing and valuation are official data, though not final, but subject to change by the constituted boards of review and equalization. With these data the assessor has finished, though he may take part in the review and equalization either as a member of the board or as the witness.

But what of property which the assessor has failed to list? Under what conditions and by whom may the omitted property be placed on the roll? Here the practice differs widely among the states. In some states the assessor must add the property to the roll with proper penalties. In a larger number, the addition to the roll must be made by the local board of review; and in Minnesota both the local and county boards are charged with this duty. In Arizona, California, Oklahoma, Missouri, and Texas, both the assessor and the county board of review must seek to add such property to the roll.

The penalties previously discussed apply chiefly to the current assessment. Property subsequently discovered which has escaped assessment ought not to be out of the reach of the state, for this would encourage evasion. On the other hand, the tax lien of the state ought not to run without limitations, as that would seriously interfere with the exchange and use of property. Yet the statute of limitations, as a rule, does not run against the state.

The time limit, where there is one, is not the same in all states. Kentucky and Texas claim the right to assess property whenever it is found, but the limit is not the same for all property. Rhode Island permits the assessment of omitted property for six years back, but only to the owners or trustees at the time of evasion. In Alabama and Ohio the time-limit is five years. Florida and Louisiana hold the right for only three years. Wisconsin also permits the assessment of realty for three years. Georgia places the limit at one year. California likewise limits the period to one year, and then adds that personal property

must still be in the hands of the same owner or trustee; but, if found within the time limit, it is to be assessed at double the value.

When the assessor has completed his list, and has turned in his work for the year, he has, in most of the states, nothing more to do with the assessment of property until the next year. That, at least, is generally true of the local assessor and to some extent of the county assessor, who usually limits his work of assessment to a certain season. In the large cities, the assessment has become a continuous process. The listing and appraisal must be made as of a given date. During the rest of the year, however, the assessors check up the assessments with sales records, prepare classification lists, field books and maps, and attend to other matters pertaining to the modern assessor's office. Sometimes property discovered subsequently to the regular assessment date may be turned in as a part of a supplementary assessment. In Massachusetts the assessor retains the list and may at his discretion add property discovered subsequent to the regular assessment date. He may, also, with considerable power of discretion, make abatements even after the tax levy has been made. But this is unusual. In most states the assessment is still deemed to be largely a clerical task that requires no particular training or skill, and one that is begun at a definite time and finished within a stated period.

In summary, it may be said of the local assessment that the assessment area is too small where it is less than the county, or large cities. The prevailing method of electing the assessor is faulty in that it places in office men who are often untrained, unskilled, and likely to be politically influenced in their work toward either a low assessment ratio for their districts or toward assessments favoring particular interests. The compensation of the assessor is almost invariably too low, except in the larger cities where the assessment functions have expanded to require a permanent department of assessment. The processes of equalization, the central supervision of the local assessment, and the central assessment of certain types of property which, as experience has demonstrated, cannot be locally assessed, will be treated in the following chapters.

It would hardly be possible to overemphasize the prevailing characteristic of excessive decentralization in the assessment. The administration of the general property tax contrasts sharply with that of

the income tax, and of every other tax except the poll tax and a few local license taxes. The assessment is essentially a function of determining values uniformly for the entire state. It ought to be a state function, and the assessment officials ought to be as free from local pressure of taxpayers as are the administrators of the federal and state income taxes. That this is not the condition is chargeable chiefly to the fetish of home rule. Perhaps the home rule doctrine is, in certain phases, based upon a genuine desire for local self-government. But underlying the insistence upon local assessment is a feeling that the local assessor is not merely necessary in order to prevent differentially high local valuations but also useful for the purpose of obtaining differentially low local valuations. The mechanism for this competitive undervaluation could be removed by centralizing the assessment.

This problem has long been recognized. In 1915 a committee of the National Tax Association, reporting[1] on the method of selecting assessors, suggested four methods, differentiated primarily by the degree of centralization proposed. The first method provided for a full-time assessor in each county, appointed under civil service rules after competitive examination, by the state tax commission for an indefinite tenure, and subject to removal only for cause. The appointment was to be made regardless of residence of appointee, and the tax commission would have authority to move the assessor from one county to another for the good of the service. The other three methods differed merely in the degree to which they lacked the centralizing features of the first. No opposition in principle to these methods was voiced by the Conference, but the belief was expressed that progress toward making the assessment a state function would be slow. Fifteen years of experience have justified this belief.

[1] *Proceedings*, IX, 197–207.

CHAPTER XV

EQUALIZATION

Had the local assessment been satisfactory there would have been nothing further to do but extend the taxes and collect the revenue. Since the assessment, however, is very incomplete and unequal, it has been found necessary to establish state equalization agencies to remedy the assessment. These agencies date back, in their simplest form, to colonial days. In Massachusetts the first relatively permanent committee of the General Court to equalize taxes was apparently created in 1692.[1] However, in the states, except Maine (1820), Vermont (1820), Connecticut (1820), and Ohio (1825), the equalizing agencies, in their present form, appear to have been organized since 1850.[2] And a few states have not yet provided such agencies.[3] Many of the early boards, commissions, and committees charged with equalization were temporary, and all, judged by modern standards, were crudely organized and equipped. Local bodies of review and equalization also date back many decades. As will be seen from Table 83, only five states remain without county or other local boards of review or equalization, and some twelve to fourteen have both county and local boards.[4]

I. EQUALIZATION FUNCTIONS AND AGENCIES

The concept of equalization is simple. It means the accomplishment of a uniform assessment ratio, at least within given categories of property. The assessments discussed in the preceding chapters are the assessments as equalized. As these "equalized" assessments unquestionably were far from equal, either they must have been very bad before "equalization" or the equalization must have been ineffective. Both assertions are true in part, as will appear presently. Diverse sorts

[1] Lutz, *The State Tax Commission*, pp. 223.

[2] *Ibid.*, pp. 45–46. [3] Cf. Table 83, *infra*.

[4] For detailed tabular presentation, cf. National Industrial Conference Board, *State and Local Taxation of Property*, pp. 181–91, Tables 12, 13.

of discriminations occurring everywhere called for both local and state equalization agencies. A state agency was necessary that the state tax might be proportional to the property in the counties; a county agency, to equalize the valuation for the taxes of the smaller units within the county; and some agency, state, county, or local, to equalize the individual assessments, either upon complaint of the taxpayer or upon its own initiative. Where discrimination existed among different classes or types of property, equalization was also necessary, at least so long as the original assessment was made under a decentralized system.

To this principal function of the equalizing agencies have been added certain auxiliary duties which might otherwise have been retained by the assessor, or assigned to the courts or to some other local officer. In the first place, where the assessor is, in fact, a mere taker of the lists[1] or inventories whose seasonal task is completed when the round of all the taxpayers has been made, or when the stipulated period for receiving the returns is past, it is necessary that some official or body receive the list from the assessor and hold it open for inspection by taxpayers unless the assessor's valuations and lists are to be arbitrarily accepted for extension on the tax roll. There must also be some agency to correct clerical errors in the lists, upon complaint or otherwise. These functions might have been left with the assessor, as they have been in many states, but in other states they have been assigned to the local board of review, to the county auditor, or to the county supervisor of assessment. It is a matter of division of labor among available agencies.

In the second place, the listing of omitted property must be done in the interest of the public treasury and of the taxpayers generally. Here also the assignment of the work varies. It is left to the county or local assessor in some states, assigned to the local boards of review in others. In some states, both the assessor and the local board may add omitted property; and, in others, it appears that very inadequate provision has been made for this task.

Finally, it is necessary to provide for hearings of disputes between taxpayers, on the one hand, and assessors and boards of review or equalization, on the other. These disputes are mostly individual com-

[1] In Vermont the assessors are called "listers," although their functions are rather more extensive than in many other states.

plaints, although many claims are filed by taxpayers' organizations. The claims assume various forms. Usually they allege excessive valuations, but they may allege undervaluation of the property of other taxpayers. They may allege that the property is exempt, is situated and taxable elsewhere, or is taxable at a different rate. In view of the prevailing inequalities in the assessment ratios it would appear that the claims might be legion in number. As a matter of fact, the vast majority of justifiable complaints are never made. If they were, the courts and other agencies for hearing complaints would be swamped. Considerable inertia must be overcome before some taxpayers will actually complain. Ignorance of procedure and forgetfulness of time-limitations prevent many claims. Unless the rule of proportionality is flagrantly transgressed, many will not complain. Aware of the undervaluation of their own property, many taxpayers are led not to present claims for fear that full valuation may be attempted on their own property and not on that of others who do not complain. The taxpayer with large holdings has much at stake, while the tax on small parcels seems small. The disproportionately low valuation on large holdings is partly due to the fact that the holders of small parcels less frequently seek redress. As it is, the complaints are so numerous that it has been necessary to devise some sort of administrative agency to handle claims that would otherwise go to the courts, or that would not be made or would be denied because the procedure of the courts is too slow and complicated. The same course is followed here as in other departments of government, namely, the creation of an administrative branch to supplement the traditional legislative, executive, and judicial branches. In taxation, as in other governmental affairs, the disputes involve questions of fact oftener than questions of law. The settlement of questions involving disputed facts in property taxation may be made by the assessor, the township or city board of review, the state board of equalization, or the state tax commission, according to the particular agencies provided in a given state. Or they may go to the courts. Finally, in all states, a complaint, showing proper cause, may be appealed, through some or all of the equalizing agencies, to the courts. But the taxpayers must exhaust all the administrative remedies available before the courts will take cognizance of a complaint. In Table 83 are presented certain facts about the equalization agencies. The state board of

TABLE 83

EXISTING STATE AND LOCAL AGENCIES FOR EQUALIZATION, 1931*

State and District	State Equalization						Local Agencies	
	Agencies			Tenure (Years)	Interval (Years)	Taxes Affected	County	Local
	Name	Members	Selection					
Alabama	......	......	......	......	......	......	Ex	None
Arizona	TC	3	Ap	6	1	All	Ex	None
Arkansas	TC	3	Ap	8	1	All	None	None
California	BE	3	El	4	1	Local	Ex	None
Colorado	BE	5	Ex	......	1	All	Ex	None
Connecticut	BE	3	Ex	......	......	State	None	M
Delaware	......	......	......	......	......	......	As	None
Dist. of Columbia	......	......	......	......	......	......	As	None
Florida	BE	3	Ex	......	1	All	Ex	None
Georgia	TC	1	Ap	6	1	All	Ap	None
Idaho	BE	5	Ex	......	1	All	Ex	None
Illinois	TC	5	Ap	6	1	All	Var	Var
Indiana	TC	3	Ap	4	1	All	Ex	None
Iowa	TC	4	Ap	6	1	All	Ex	Ex
Kansas	TC	3	Ap	6	1	All	Ex	None
Kentucky	TC	3	Ap	4	1	All	Ap	Mcpl
Louisiana	TC	3	Ap	6	1	State	M	None
Maine	SA	3	Ap	6	1	State	None	None
Maryland	TC	3	Ap	6	1	All	None	None
Massachusetts	TC	1	Ap	3	3	State	None	As
Michigan	TC	3	M	......	1	State	Ex	None

* The following abbreviations are used:

TC.................. Tax commission or commissioner
BE.................. Board of equalization
DR.................. Department of revenue
SA.................. Board of state assessors
BTA................. Board of taxes and assessments
Ap.................. Appointed
El.................. Elective
Ex.................. Ex officio
M................... Mixed
As.................. Assessors
Var................. Various
Mcpl................ Municipal
Sel................. Selectmen

For a more elaborate tabular presentation see National Industrial Conference Board, *State and Local Taxation of Property*, pp. 182–296, Tables 12–16.

TABLE 83—*Continued*

States and District	State Equalization						Local Agencies	
	Agencies			Tenure (Years)	Interval (Years)	Taxes Affected	County	Local
	Name	Members	Selection					
Minnesota	TC	3	Ap	6	1	All	Ex	Ex
Mississippi	TC	3	Ap	4	1	All	Ex	None
Missouri	BE	5	Ex	......	1	All	Ex	Var
Montana	BE	3	Ap	6	1	All	Ex	None
Nebraska	BE	4	M	......	1	All	Ex	Mcpl
Nevada	BE	24	M	......	1	All	Ex	None
New Hampshire	......	......	......	......	......	......	None	Sel
New Jersey	BTA	5	Ap	4	1	All	Ap	None
New Mexico	TC	3	Ap	6	1	All	Ex	None
New York	TC	3	Ap	6	1	State	Ex	Var
North Carolina	BE	3	Ex	......	1	All	Ex	M
North Dakota	BE	5	M	......	1	All	Ex	Var
Ohio	TC	3	Ap	6	1	All	Ex	None
Oklahoma	BE	7	Ex	......	1	All	Ex	None
Oregon	TC	4	M	......	1	All	Var	None
Pennsylvania	......	......	......	......	......	......	Var	Var
Rhode Island	......	......	......	......	......	......	None	None
South Carolina	TC	3	Ap	6	1	All	Ex	None
South Dakota	DR	3	Ap	6	1	All	Ex	Ex
Tennessee	BE	5	M	......	1	All	El	None
Texas	......	......	......	......	......	......	Ex	Var
Utah	TC	4	Ap	4	1	All	Ex	None
Vermont	......	......	......	......	......	......	None	M
Virginia	......	......	......	......	1	All	None	None
Washington	TC	3	Ap	6	1	State	Ex	Mcpl
West Virginia	TC	1	Ap	......	......	......	Ap	None
Wisconsin	TC	3	Ap	8	1	State	Var	Var
Wyoming	BE	3	Ap	6	1	All	Ex	None

equalization has been treated in greater detail, because it exhibits more variation, and is more significant for the purpose of efficient assessment.

A. UNDEVELOPED FORMS OF EQUALIZATION

In a few states the function of equalization has not been recognized as a separate part of the assessment; it is in form unusual or irregular,

and what there is of it is usually done by the courts. Three states employ their courts to equalize assessments. The simplest system is that of Rhode Island. Any person aggrieved may petition the supreme court of the state for relief. The petition does not stay the payment of the tax; if relief is granted, a refund is made. The state tax commission exercises general supervision. In Alabama the county commissioners are required to sit as a court of review. Objections to the assessment are treated as cases on the docket and tried in the name of the state as plaintiff with the taxpayer as defendant. Appeal lies to the circuit court. The cities have local boards of review, the intendant and the aldermen meeting to correct errors. The tax adjuster, a sort of tax ferret, appointed by the governor for an indefinite term, is to seek out omitted property and to aid in effecting equality in the valuation. It would perhaps be more accurate to say of this system, not that it is undeveloped, but that its development has been unusual. There is a state tax commission which does not equalize between districts and counties. Alabama belongs therefore, in a sense, in the class of states having dual equalization.

In Virginia, any person aggrieved may apply for relief to the local circuit court. The attorney for the commonwealth defends the assessment against the taxpayer. The court may order the assessment corrected, restrain the treasurer from collection, or order the money refunded, according to the stage of the process. Prior to the completion of the assessment, the assessors of the districts of any county must meet for the purpose of equalizing land valuations in their county. After the assessors have entered their valuations they can be altered only by the courts as indicated. There is no similar review of personal property valuations. The state tax commissioner does not equalize for state purposes.

In three states, instead of the courts, some administrative agency is employed for adjustments not properly designated as equalization. In Massachusetts there is no local equalization. Taxpayers overassessed may obtain redress either from the assessors, the county commissioners, or the superior court. As for state equalization, there is no machinery designed to raise assessments which are too low. Every third year the commission of corporations and taxation reports to the General Court "an equalization and apportionment" upon the several towns,

of the number of polls and the amount of property. This is primarily a device for determining how much of the state and county revenue to be raised from property taxation each town shall contribute. The commissioner does not equalize for local purposes. Vermont makes similar provision for local adjustments. In West Virginia the county board of review and equalization, composed of three persons appointed by the state board of public works, reviews but does not equalize the assessment as returned by the assessor. Appeal lies to the circuit court.

B. ONE AGENCY FOR EQUALIZATION

Five states and the District of Columbia may be grouped together as having only one well-defined equalization agency. They fall into two subgroups according to whether the agency is local or central in character. The peculiar position of the District of Columbia makes an elaborate scheme of equalization unnecessary, as only one set of property taxes is imposed. The respective assessors of real and personal property simply make such corrections as are necessary upon completion of the valuation. This assessment, when approved by the commissioners of the District, constitutes the basis for the tax apportionment. Similarly, in Delaware the county board of assessment, appointed by the levy court of the county, corrects any errors before presenting the list for the approval of the levy court. In Connecticut, the town or city board of relief, consisting of from two to five members elected annually, together with the town board of finance, consisting of six electors and taxpayers, also elected, and the town clerk, constitutes the board of equalization. It raises or lowers any valuation, adds omitted property, and may allow certain deductions for indebtedness, provided the list has been properly given in under oath. An ex-officio state board of equalization equalizes between cities and towns receiving state aid.

Maryland differs from the two foregoing states in that the county commissioners (in Baltimore City, the appeal tax court) equalize. The commissioners correct the returns, hear complaints and appeals, add omitted property, and may, on their own motion, change the valuations and abate taxes improperly imposed, all subject to the approval of the state tax commission, whose decisions are final. There is no equalization for state purposes. The Texas county commissioners may

concern themselves only with the valuations, and their decision is final, since there is no authority to equalize among the counties. The cities, however, may have their own supplementary boards of equalization, according to their discretion. New Hampshire provides for equalization by a state agency, but for no local equalization. The selectmen may abate any tax; but they do not constitute a legally organized board of review. Appeal lies to the county court or to the tax commissioner. The tax commissioner equalizes every second year among the cities and towns; but this, as in Massachusetts, is mainly a device for the apportionment of the state taxes.

C. DUAL SYSTEMS

The twenty-eight typical states have one local and one central equalizing agency. The county board of equalization generally consists of the county commissioners,[1] but some states provide for additional members, such as the county assessor. Sometimes an entirely different board performs the equalization. For example, in Oklahoma, the assessor is ex officio secretary of the board of county commissioners, and, therefore, a member of the board of equalization. In Ohio, the board of review consists of the president of the county commissioners, the auditor (who is the county assessor), and the treasurer. The police juries of each parish in Louisiana appoint two members, who must be citizens and taxpayers, and the tax commission appoints a third; the parish of New Orleans elects its own board. In South Carolina, the chairmen of the township boards of assessors constitute the board of review, except that the city of Charleston has a special board composed of the county auditor and six citizens elected by the city council; in Michigan, the county board is composed of the several supervisors of the towns.

The functions of the county board of review are, on paper at least, nearly the same in all states. The task is to adjust the valuations of individual items of property so that uniformity of the assessment ratio will prevail. The board, at the request of taxpayers, and on its own initiative, investigates complaints. It functions, in its capacity of a board of review, for only a few weeks each year. Except for general and superficial analysis, the activities of the board are limited largely to the

[1] In Michigan and Wisconsin, there is no county equalization, but a township board instead.

hearing of complaints. The power to adjust the valuations of individual items is usually unlimited. In most of the states the board may raise or lower any valuation. In South Carolina, it may raise or lower the valuation of any item of property, but the aggregate valuation of the assessor may not be lowered. Elsewhere individual items as well as the aggregate may be changed in either direction. While the boards, in general, have ample legal powers as regards the review of the valuation, they are not so well provided for in regard to the completion of the list. In only a few states are they required or permitted to enter omitted property. In Oklahoma and Tennessee they are specifically instructed to eliminate nontaxable property wrongly listed. In a few states, of which Indiana is the most conspicuous, they are empowered to set aside the assessment of the assessor entirely or in part and to order a reassessment.

As a rule, after the county board has approved the valuations, they are final as far as the county board is concerned. It does not have the power to abate taxes assessed, except that in Utah the board may abate taxes, not to exceed $10, on the property of insane, idiotic, or indigent persons. The practice of abatement, conspicuous in New England, seldom occurs elsewhere.

The practice of state equalization is ancient in origin. As early as 1668[1] the General Court of Massachusetts Bay colony appointed a temporary committee to equalize the valuations of the several towns. Other colonies and provinces occasionally created similar temporary legislative committees, and the practices continued through the days of early statehood. But as permanent parts of the assessment machinery, such organizations did not appear till 1820, and for decades were few in number. They were usually ex officio, consisting of designated officers, such as the governor, auditor, and others. Occasionally they were elected from the congressional districts, or were mere legislative committees.[2] Only since 1891, when the first permanent tax commission was created in Indiana, has the function of state equalization been assigned permanently to this agency.

[1] Douglas, *Financial History of Massachusetts*, p. 27.

[2] For a table showing the origin and character of the earliest boards, cf. Lutz, *op. cit.*, pp. 45–46. While many of the state equalization agencies are still faulty in organization, they are very much superior to the early boards. A comparison of Table 83 with the table presented by Lutz will reveal the changes.

The most common practice is to assign the equalization function to the permanent tax commission in charge of general tax administration. Seventeen states in this group of twenty-eight not only actually assign the central equalization to a body with the attributes of a tax commission but also give it that name. In eight others, for various reasons, the board is called the state board of equalization, although it has extensive functions of central assessment and supervision as well. These boards are appointed, usually by the governor with the consent of the senate. Only in Nebraska and Georgia is there only one commissioner; the number is usually three or more.

Four states in this group have ex officio boards, three of them[1] being required by the constitution. Tennessee, which, until 1923, had an elective board representing each of the three grand divisions of the state, now has an ex officio board. Nevada has a mixed board. To the tax commission composed of six members appointed by the governor, are added the county assessors, thus forming a very unwieldy board, which serves the purpose of giving to the dominant class, the cattle interests, control of the local assessors.[2] Florida presents an interesting variation. The tax equalizer, a species of tax ferret appointed by the governor, attempts to find omitted property and correct improper valuations. Appeal from his decisions must be made to the ex officio board of equalization.

Two states have more than one board. Colorado, afflicted by its constitution with an ex officio board of equalization, which obviously could exercise few or no administrative functions, assigned such functions to a tax commission. The situation in Missouri is similar,[3] and nothing is more instructive of the futility of detailed constitutional provisions governing conditions that constantly change than the acrimonious conflicts and waste of effort, with the resulting confusion and inefficiency, between the two boards in both of these states.

In some of these twenty-eight states the equalization organization of at least one of the two agencies is rudimentary in form or limited in scope. The Maine state board of assessors must investigate the assessments in each county each year; the county commissioners

[1] Colorado, Idaho, and Oklahoma.

[2] For the evolution of this board, see Lutz, *op. cit.*, pp. 619–22.

[3] Missouri belongs in the next group, having a triple system of equalization.

equalize between smaller taxing districts within the county and apportion the county taxes among the towns. In Pennsylvania the state levies practically no property tax, hence state equalization is limited.

D. TRIPLE FORMS

A group of ten states[1] has a triple system of equalization. In all except North Carolina and North Dakota, which have ex officio or mixed boards, there is a tax commission which performs the work of equalization as one of its numerous administrative functions. In New York the equalization of the state board may form the basis of the state tax only, in New England fashion; the local taxes being based, if locally desired, on the local valuation as equalized by the county board. In the other nine states, the equalized valuation of the state board ordinarily forms the basis for all general property taxes.

The state equalization agencies in this group resemble those in the foregoing group, except that they are, in general, better developed and supported. This is also true of the county boards. Only the local boards need, therefore, be described. The township boards are ex officio in ten states. New York, conforming to New England practice, makes its board of assessors a board of review, the books being open for a short period during which taxpayers may complain and the board may adjust assessments. Elsewhere in this group the local board consists of the township supervisors or officers with similar functions, sometimes with various other officers added ex officio.

The city is an anomaly in the present American political organization. It does not fit readily into the county scheme for purposes of tax administration. The city board of equalization, wherever there is one, usually consists of a committee of the city council, but sometimes is an elected or ex officio body. Thus, in Missouri, in the cities of the first class the board consists of the mayor, the comptroller, and the president of the council; in cities of the second class, the mayor and the commissioner of revenue sit with the county board; in cities of the third class, the mayor and the city assessor act as the municipal board of review. Or the board may be partly elective and partly ex officio; or appointive entirely or in part. There is apparently no standard prac-

[1] California, Florida, Iowa, Minnesota, Missouri, New York, North Carolina, North Dakota, South Dakota, and Utah.

tice with reference to the personnel of the boards. In general, the larger the city, the more specialized is the agency provided.

Almost uniformly in this group of states the county board is composed ex officio of the county commissioners. Minnesota and South Dakota require the county auditor to be a member, and in these states he has become a sort of unofficial county assessor.

E. CO-ORDINATE FUNCTIONAL SYSTEMS

Complex and unwieldy as are these triple systems of equalization, they are still simpler than some of the experimental arrangements that obtained while equalization practices were evolving into the present form. It was not uncommon to create temporary boards to equalize particular kinds of property, such as personalty, realty, railroads, and banks. Such discontinuous, co-ordinate, but independent, boards could not possibly equalize all property, especially as the assessment ratio was lower than 100 per cent. Being unsound in principle, they gave way to the present forms. An example may be had in the Ohio law of 1878, which will serve, not only to show the complexity of the arrangements to which the extension of this form of organization would have led, but also to suggest why they were not suited for their purpose:

Seven boards of equalization were now provided for: The annual county board, consisting of the county commissioner and the auditor, to equalize individual assessments; the annual city board, with similar duties, consisting of the county auditor and six citizens of the city appointed by the council; the annual state board for banks, consisting of the state auditor, treasurer, and attorney general, to equalize the value of the shares of incorporated banks; the annual state board for railroads, consisting of the same officials, with similar duties for the railroads of the state; the decennial county board, consisting of the auditor, surveyor, and county commissioners, to equalize the real property in the county; the decennial city board, consisting of the county auditor and six citizens appointed by the council, with similar duties for the city; and the decennial state board, consisting of as many members as the state senate and elected from the senatorial districts, with similar duties for the state. These last three were to meet in 1880 and every tenth year thereafter. In the multiplicity of these boards is eloquent testimony to the growing complexity of the tax system, and of the need of different treatment of different forms of property, in spite of the constitutional requirement of uniformity.[1]

[1] Bogart, *Financial History of Ohio*, pp. 238, 239.

Property centrally assessed[1] must be reviewed or equalized in order that it may be taxed at the same percentage of its value as other property. In most states the agency assessing such property on the unit basis also equalizes other property, there being usually only one body in each state concerned with tax administration. This double capacity of a state board is not without dangers. It requires considerable honesty and ability to perform both administrative and judicial functions involving the same matter. Nevertheless, it is probably preferable to two or more state boards with divided functions of assessment and review, one to assess certain property and the other to equalize it.

II. EFFECTIVENESS OF EQUALIZATION

Obviously equalization has not achieved what is usually contemplated in the law—a 100 per cent assessment, or even a uniform fractional assessment, in any state at any time. How much greater the inequalities would have been in the absence of any equalization cannot be told, since the telling would require a comparison of what was or is with what would have been in different circumstances. The only quantitive measure we have of the work of the boards of equalization is the extent to which they have changed the original assessment up or down, measured either by number or amount. As a qualitative test, however, this comparison is almost worthless, unless it can be checked against some standard, such as actual value, as determined through sales records, appraisals, or otherwise.

In his excellent volume, *The State Tax Commission*, H. L. Lutz has provided the only comprehensive study of the work of state agencies of equalization. The boards of equalization were the forerunners of the state tax commissions, and the function of equalization is still in many states the principal function of the tax commission. Unfortunately, the volume, published in 1918, is nearly fifteen years out of date. However, the formative period of the equalization movement was then already past. Such changes as have taken place since 1918 consist chiefly of adoption, by certain states, of equalization devices and agencies already demonstrated to be sound. The treatment of the present section is therefore based largely on Lutz's conclusions. If any general comment can be made on the tendencies since 1918, except the adoption in a few states of more suitable equalizing agencies, it is the observation

[1] Cf. chap. xvii, *infra*.

that many of the tax commissions have become weary of well doing. They have become absorbed in the routine of their office. Other issues have to some extent crowded to one side the equalization of property values. Equalization of the tax burden is a different matter, and the attention of special as well as regular tax commissions is directed thereto. Complete equalization of property values, were it possible, would not effect equality of the tax burdens.

Lutz's investigation amply demonstrates three propositions: First, state and local equalization agencies, under proper conditions can effect, and in a few states have effected, striking improvements in property assessments. Second, these conditions have rarely been fully met. As a consequence, the improvements in the assessments of only very few states have been appreciable and sustained. Third, there are inherent limitations in the process of equalization. A poor original assessment can only in part be cured by any equalization device or agency.

A. THE ACHIEVEMENTS

The striking results of equalization in a few states, notably Wisconsin and Kansas, compared with the ineffectiveness in other states, prompts one to remark that in "those days there were giants in the earth," but not enough to furnish one for each state. In both Wisconsin and Kansas the improvements were due to the presence of men on the tax commissions who understood the problem, knew the remedy, and had the courage to stake their convictions on the chance of demonstrating the soundness of their views.

State equalization in Wisconsin dates from 1852. The original board was ex officio, changing in form with the passing of time. The results were so poor that in 1868 the legislature provided for an independent assessment as a basis for the state taxes to take the place of the equalized local assessments, and the state board of equalization was now termed the "state board of assessment."[1] In 1899 a tax department was created, which was given additional administrative duties, and in 1905 emerged as the state tax commission in substantially its present form. The state assessment was a regular part of the tax commission's work. The commission attacked this problem with energy and re-

[1] For the history of equalization in Wisconsin, see R. V. Phelan, "The Financial History of Wisconsin," *Bulletin of the University of Wisconsin*, No. 193, 1908.

sourcefulness. There was on hand a mass of sales records running back as far as 1873, reported by the county registrars of deeds; from these the bona fide transactions were selected and used as the basis for the correction of the local assessments. The commission's own field men, and since 1911 the income tax assessors, have collected data for the later years, and an efficient statistical department of the commission was organized to analyze and synthesize the data. Sales data were not the only evidence used; but more effective use was probably made of them in Wisconsin than in any other state. For personal property assessments the sales records are not so useful, hence the commission's investigators made appraisals of different types of personalty[1] which the commission used as a basis for the state assessment of personalty.

The results of the effective work of the tax commission may be summarized from Lutz as follows:[2] First, the state tax has been apportioned much more equitably among the counties and smaller units than formerly. Specifically, the result was to place less of the state tax upon the older and well settled southeastern counties, whose property was already on the tax roll, and more of it upon the newer counties elsewhere, whose much more rapidly growing wealth was being too tardily recognized by the slipshod methods of the local assessors. Second, a larger share of the state tax was raised on personal property than would otherwise have been possible. In 1901 personal property was 17.41 per cent of the total; in 1903, 25.3 per cent; in 1907, 21.1 per cent; and in 1911, 25.14 per cent. In 1914, after the adoption of the income tax, most of the intangibles were exempt, and offsets were allowed, but the personalty of that year was 18.28 per cent. In 1920 the corresponding figure was 22.70 per cent; but, in 1929, owing partly to the elimination of bank stock, the last item of intangible property, from the list of taxable personalty, the figure was reduced to 14.85 per cent.[3] However, the equalization of personal property has not been as effective in urban as in rural areas. Agricultural property, such as livestock, the commission found little difficulty in equalizing; but no adequate device for checking other forms of personalty, in the absence of accurate original assessment, has yet been discovered. In the third

[1] As an example of the inequalities found, cf. Table 76, *supra*.

[2] *Op. cit.*, pp. 252–57.

[3] *Report of the Wisconsin Tax Commission, 1930*, p. 46.

place, the work of the commission has resulted, aside from the above-mentioned difficulty with personalty, in equalizing the discrepancies between urban and rural units.

The experience of Kansas also shows the possibilities of equalization by a courageous and informed commission. One of the functions of the tax commission created in 1907 was the equalization of all property taxable in the state. There had been little or no equalization except through conferences of the local assessors in each county to agree upon uniform assessment ratios.[1] The new commission believed, as did the Wisconsin commission, that the standard on which the equalized valuation was to be based was the full value as indicated by any evidence available, but chiefly sales records of bona fide transactions. The Kansas commission was given and still possesses as ample and even drastic statutory authority for its work as any equalizing agency in the country. It was to "equalize the assessment of all property in this state between persons, firms, or corporations in the same assessment district, between cities and townships of the same county, and between the different counties of the state, and the property assessed by the commission in the first instance."[2] Under this authority the commission instructed the local assessors to report sales records which, they were certain, represented bona fide sales. Though other evidence was admitted the commission did its work chiefly on the basis of these records. One result of the next assessment was an increase from $425,300,000 to $2,414,300,000 in the valuation, which was made politically possible by previous legislation reducing the tax rates in proportion. But an increase in the valuation does not necessarily mean greater equality or uniformity in the assessment ratio. Although there is no statistical index to show decrease in the inequalities among counties and smaller units, the general evidence shows clearly that they were greatly reduced.[3] On the other hand, evidence presented above[4] shows clearly that gross inequalities persist, or did until 1923. A part of the blame for these inequalities the commission properly places upon the local

[1] For the history of equalization by ex officio boards in Kansas, cf. E. J. Benton, *Taxation in Kansas*, "Johns Hopkins University Studies," Vol. XVIII, No. 3 (1900); also A. J. Boyle, "Financial History of Kansas," *Bulletin of the University of Wisconsin*, No. 247, 1908.

[2] *Laws of 1907*, chap. 408.

[3] Cf. Lutz, *op. cit.*, pp. 430–38.

[4] Tables 69, 73, 74, and 75 of chap. xii, *supra*.

assessors. The township trustees in the unincorporated districts are ex officio deputies of the county clerk, who in most of the counties is ex officio assessor. As in Wisconsin, the commission has made little attempt to equalize personal property.

If Wisconsin and, to some extent, Kansas may be regarded as having demonstrated the possibilities of state equalization, Illinois may be cited as a state in which efforts at state equalization have so far been futile or worse. The first step toward state equalization was taken in 1867 when the state board of equalization was created, consisting of the state auditor and one member elected from each state senatorial district.[1] This board in 1872 had 26 members, and, while the number was changed, the board was always too large. The board was empowered to raise or lower the valuation of any county but was not allowed to reduce the aggregate valuation of the state, nor to raise it by more than 1 per cent. In 1898 this restriction was modified to permit as much of a change in either direction as 10 per cent. Since 1909 the board has been required to equalize separately farm lands, town and city lots, personal property, and railroad property. The practice has been to assign each class of property to a separate committee. There was no attempt to base the equalization on external evidence, as was done in Wisconsin and Kansas. The internal evidence may have been used, but the force that caused the so-called equalized valuations was the desire of the representative from each district for reductions for property in his district. The general result was that values were depressed even more perhaps than they would have been without the work of the board. There is no evidence to show that greater uniformity of the assessment ratios resulted.[2] In 1919 the board was abolished and a tax commission of five members created, to whom was assigned the task of equalization. But no change was made in the rules governing the equalization, and there is no evidence that any significant improvement has so far resulted.[3] On the other hand, there is abundant evidence that equalization, or some process that will make equalization unnecessary, is needed.

It is not necessary to relate at length the experience of other states

[1] Changed to congressional districts in 1872.

[2] Cf. Lutz, *op. cit.*, pp. 66–76.

[3] Cf. *Tenth Annual Report of Illinois Tax Commission*, pp. 64–79, for the work of equalization of the commission since 1919.

with equalization. Most of them have done little better than Illinois. Some, however, among them Michigan, New York, Ohio, Indiana, Minnesota, have done measurably better.

B. REQUISITES OF EFFECTIVE EQUALIZATION

The experience with state equalization has disclosed certain requisites that must be more or less fully met before effective state equalization can reasonably be hoped for. The requisites for effective local review are perhaps simpler, but they have not been the object of a general comprehensive study, such as that made by Lutz, of the state equalizing agencies. The differences in function between the local relief or review agencies and the state equalization warrant the distinction in name, and necessitate separate treatment.

1. *The local review.*—The proper function of the local agency is to permit aggrieved taxpayers to be heard about assessments which they deem erroneous or excessive. It should also permit entering of omitted property. If the township assessors could be abolished, the county board would be the local agency. Review and equalization by three successive boards is an anachronism which, however, cannot readily be eliminated so long as there are town assessors, except of course where there are no county organizations; they are possibly necessary where there is more than one large city in the same county.

Ready accessibility is one of the requirements of the local board, but with modern transportation facilities this requirement does not demand a unit smaller than the county. Another requirement is that the time allowed shall be adequate but no more. The time permitted for local review varies among the states from one week to nearly three months.[1] Some states appear to allow only one meeting of the board. In early days perhaps one meeting would suffice, and there were occasions in which not even one meeting was necessary because there were no complaints.[2] But in large cities or populous counties where in strenuous times the complaints may number many thousands, the problem of giving adequate consideration to the numerous complain-

[1] National Industrial Conference Board, *op. cit.*, Table 16, pp. 205–6.

[2] E.g., in Stokes County, North Carolina, 1927 (*Report of North Carolina Tax Commission, 1928*, p. 400).

ants in an orderly and satisfactory fashion is serious.[1] Yet the hearings should not be unduly protracted for at least two reasons: first, because the complainants will "bunch up" at the beginning or the close of the period; and second, because the longer the period for review, the longer must be the interval between the assessment day and the collection day. This interval should be as brief as possible consistent with adequate hearings on all legitimate complaints.[2]

A third requirement is concerned with the personnel of the local board. Reference to Table 82 will show that in most of the states the local boards are ex officio, consisting of the county commissioners, or the township trustees or supervisors, with or without some other elected or appointed officials. Whatever the method of selecting the board, its members should either have or be able to command information as to values that may be used as standards. It would seem that for this reason the assessor should be a member of or at least a consultant to the board. The recognition of the need for the assessor's services is shown here:

> Machinery is required to accord any individual taxpayer a hearing if he wishes to remonstrate concerning his assessment. The importance of competent personnel—honest, fearless, tactful, and not merely political—in the local or county reviewing agency is at once apparent. The assessor himself should be a consultant, but not necessarily a member, of the board, although in small districts his membership on the reviewing board scarcely can be avoided. Too large a membership of public office holders acting ex officio also should be avoided. The reviewing board should do all it can to avert expensive and time-consuming appeals to the courts, but it should not accede to unreasonable requests for reduction of assessments simply for the sake of avoiding litigation. In some jurisdictions the assessor has the right to appeal to the courts reductions in individual assessments, ordered by the board of review, in which he does not concur.[3]

[1] For a picturesque description of the bedlam of the "hearings" at the Cook County Board of Review cf. H. D. Simpson, *The Tax Situation in Illinois* (1929), pp. 20, 21.

[2] Jensen, *Survey of Colorado State Tax System*, pp. 88–93.

[3] *Assessments, Efforts by Business Agencies to Promote Improved Assessment of Real Estate for Local Taxation Purposes*, Taxation Division, Finance Department, Chamber of Commerce of the United States, November, 1930.

Finally, a fourth, and perhaps the most important, requirement is that the board should have, as a factual basis for its corrections, all the information available on property values. Here is another reason for membership of the assessor on the board, or at least for his consultant relation to it. His office should be a repository of analyzed and classified sales records, appraisals, and other value data,[1] which it would be wasteful and unnecessary to require the board to duplicate. The assessor's sales records and appraisals cannot cover every parcel of property; but they should furnish an adequate basis on which to construct land value maps and value schedules of each class of property. When the assessor's information covering any particular parcel of property has been properly used in the light of the value maps and schedules to arrive at an assessed value, that value should be changed only upon evidence furnished by the complainant that the assessor's data are faulty.

2. *The state equalizing board.*—One clear requirement of the state equalizing agency relates to the personnel and composition of the board. The existing Nevada board, consisting of a tax commission of six appointive members plus the county assessors, the former Illinois board, and the former New York board, consisting of the members of the commissioners of the land office plus the members of the state board of assessors, are examples, now fortunately rare, of boards too large to be effective. Equalization is an administrative function of finding the facts and entering orders in conformity therewith. Something can be said for having more than one member; the customary number of three members in the state tax commissions may be better. Another requirement is that the boards should be appointive rather than elective, but, in any case, they should not be ex officio. While there may be little objection to ex officio local review boards, in state equalization the ex officio character of the boards, more than any other factor, has militated against their efficiency. Especially is this true in states where the boards have been provided for in the state constitution.[2]

[1] Cf. chap. xviii, *infra*, for further discussion of the process of securing and using such data. Reference is also made to the closing pages of this chapter.

[2] Colorado and Missouri. It is almost impossible to change the board, either in respect to its duties, or its form, except by means of a constitutional amendment.

Appointive and ex officio members have been used in different combinations. In New York in 1859 the appointive board of state assessors was created to serve as a group of expert advisers to the seven elective officers who were already serving as commissioners of the land office. These two groups made the equalization, but the ex officio members were always in control.[1] After several changes, the tax commission was given sole charge of the equalization. In Michigan, prior to 1911, the state board of equalization was composed of elective officers acting ex officio. In that year the chairman of the state tax commission, which and been created in 1899, was substituted for the lieutenant-governor,[2] had there was some improvement in the regard of the equalization board for the work of the tax commission. But political manipulations seriously interfered with the tax commission's work. In Missouri, in 1917, the newly created tax commission was to work with the board of equalization provided for in the constitution of 1872. Friction arose at once and has continued,[3] though it is reported that the tax commission has "settled down to work for the board of equalization." In Colorado the constitution of 1876 provided for an ex officio board of equalization. The state tax commission, created in 1911, has been hampered in its work because it undertook aggressively to recommend equalization of the local assessors' figures.[4] In California the state board of equalization has been largely ex officio since its beginning in 1870, though changed in form. But since 1910 little state equalization has been done, because of the nearly complete segregation of sources.

Such boards usually have only slight professional interest in the equalization. The members are political officers, seldom qualified for the technical task of equalization. They do not have sufficient time to devote to the work of equalization. While downright fraud and intent to deceive and defraud are not frequent, there are instances where such a board has met in the morning, and adjourned almost immediately, charging the state with a day's work. The shortcomings of the ex officio board have been well demonstrated by Lutz, *op. cit.* See index page for references.

[1] *Ibid.*, p. 57. [2] *Ibid.*, pp. 249 ff.

[3] Both boards issue biennial reports, and the nature of the conflict between them may be seen from the whimsical *First Biennial Report of the State Tax Commission, 1917–1918.*

[4] Cf. R. M. Haig, *Report to Survey Committee of State Affairs, 1916;* also Jensen, *op. cit.*, 1930, for reasons of abolition of the constitutional board.

In nine states,[1] the tax commissioner[2] and selected ex officio members constitute the board of equalization. The simplest form of this type of organization occurs in North Carolina, where the commissioner of revenue with the attorney-general and the chairman of the corporation commission performs the equalization. If the board of equalization must be ex officio, then it is important that there be some person in charge of a permanent staff, perhaps in the capacity of an executive secretary, to make such studies, obtain such data, and make such analyses as are required. The danger is always that the ex officio members will not recognize their own limitations and will reduce the expert tax commissioner to the position of an errand boy.

A second requirement is that the state equalizing agency shall not be unreasonably restricted as to its methods of procedure or the scope or the validity of the changes it may make in the assessment. It is absurd to create an agency for a much needed function and at the same time tie its hands so that it cannot work. There is no evidence that, for example, the sweeping powers of the Kansas tax commission cited above have been abused. On the other hand, there is abundant evidence that the legislatures and the courts have so emasculated the state boards of equalization as to make them inffective. The board of Illinois has already been referred to as having been granted inadequate powers by the legislature. The original state board of California, created in 1870 and modified in 1872, had reasonably ample power under the statute of its creation, but the supreme court of the state in 1874 held most of its powers unconstitutional;[3] and the legislature in 1876 completed the emasculation by making the board a mere statistical organization, authorized merely "to ferret out the existing inequalities and call them to the attention of the governor and the legislature."[4] In 1880 the legislature enacted a law giving the board even greater powers than it had formerly possessed;[5] but again the court interfered

[1] Connecticut, Florida, Nebraska, North Carolina, North Dakota, Oregon, Pennsylvania, South Dakota, and Tennessee.

[2] Or chief administrative officer performing the functions usually assigned to the tax commissioner.

[3] *Houghton, et al.* v. *Austin*, 47 Cal. 646.

[4] Fankhauser, *A Financial History of California*, p. 241.

[5] *Ibid.*, pp. 284–90.

by enjoining it from altering individual assessments, believing that "serious and absurd results would likely follow."[1] Quite to the contrary, it is evident that "serious and absurd results" must follow if the board cannot, when necessary, alter individual assessments. Under this decision the board could merely raise or lower the entire roll of a county, but could take no account of different classes of property or individual assessments. It is not necessary to elaborate upon similar restrictions on the boards of equalization in other states.

A third and very important requirement is that the board of equalization must have means, authority, and disposition to secure and employ basic data on values of property against which to check actual assessments. Analysis of the assessment roll or abstract itself, to bring out the internal evidence of inequalities contained in the assessments themselves, cannot take the place of external evidence such as only sales records can yield. Mere arrangement and comparison of unit values of the assessment abstract, such as were used by the Illinois state board of equalization, are not sufficient. Such comparisons are valuable, of course, in a preliminary survey to inquire where equalization is likely to be most needed. Classification of counties and smaller units on some economic basis, such as was used by the early New York board, may be useful for the purpose of establishing presumptive values. But so long as the fair cash or market value is the required tax base, nothing will take the place of actual sales records as a check upon the assessments. Where they are not available, any evidence that will help to ascertain fair assessed values must be admitted. Any such other evidence should be used to check the sales records themselves.

Well selected sales records are even more indispensable to the state board of equalization than to the assessor and the local board of review. The state board cannot hope to possess such personal familiarity with property values of the entire state as the assessor and the local board sometimes possess in less populous counties and towns, and upon which they usually rely too freely. The state board should have a factual basis for its orders, and sales records provide the only direct factual basis in existence. That such sales records can be secured and can be effectively used is proved by the experience of the Wisconsin tax com-

[1] *Wells, Fargo and Company* v. *State Board of Equalization*, 56 Cal. 194, 198.

mission since its beginning.[1] They cannot, however, be secured and used unless the board of equalization understands their source and significance. And they cannot be had without appropriations to cover the cost of securing, sifting, and analyzing the raw original records. In the absence of the sales records and of conditions under which they could be obtained and used, most of the state boards of equalization have been pretending to equalize without them.

Perhaps it is as well that some equalizing agencies have not attempted to use the sales method. The indiscriminate use of raw records of sales is not only misleading but hazardous. Most of the objections to the sales method arise because it is found that many recorded sales prices do not reflect market value accurately, and because it is supposed that even minor discrepancies in the raw records render all the records useless for assessment or equalization purposes. This supposition is incorrect.

Records of true consideration in transfers of property can be had in two principal ways.[2] One is to inquire at every sale or to require a report thereof to be made of the consideration paid. But that method has not been found practical, chiefly because of the expense involved. The other is to use the public records of transfers. Under either method, but especially under the latter, it is necessary to eliminate part of the records. Some deeds state only a nominal consideration, and it has not been deemed expedient to pass laws requiring a statement of true consideration. Other transfers may be among relatives, forced sales not covering the full equity, or partly or completely exchanges not involving cash considerations. Other earmarks may necessitate the elimination of records. Every agency attempting to use the sales method must discover from the actual records what the invalidating characteristics are. The records not rejected must be checked by state-

[1] The sales records for Wisconsin have been the basis for the "state assessment" on which the state property tax is levied. As in New York, the "local assessment" is not determined by the state assessment. In fact, the valuations used by the local units have been very different from those used for the state levy.

[2] For the method of securing, sifting, and using the Wisconsin sales records, cf. *Report of the Wisconsin Tax Commission, 1901*, pp. 44–68; also, Lutz, *op. cit.*, pp. 243 ff.

ments from one of the parties to the transfer, or in some other way, when possible.[1]

The remnant of records surviving this selective process, if kept current, constitutes a sample of actual prices against which assessments may be checked. The sample is more reliable to the board of equalization as an index of the average level of property values in each county, city, or town, than it is to the assessor as an indicator of actual values of specific parcels. For it is to be remembered that equalization is concerned with keeping the average assessment ratios uniform in all the taxing districts, while the assessor is concerned with determining assessment ratios for specific parcels.

If the sales method is to be rejected as a basis for equalization, it must be rejected more emphatically as the basis for checking assessment ratios in reassessments and taxation surveys, and we have then no effective method of checking assessments. For the sales data that can be systematically accumulated by a state board over a period of years are much more reliable than those that can be hurriedly obtained for the purpose of an occasional survey or reassessment. Despite opposition to the sales method, it remains the most serviceable device for checking assessment ratios.[2]

C. LIMITATIONS UPON EQUALIZATION

Even the best equipped, most capable, and best intentioned board cannot do everything expected of it. Equalization cannot take the place of or remedy a bad original assessment. If the assessor's value ratios were uniform throughout his district on all individual assessments, if there were merely inequalities among towns or counties, and if all taxable property were listed, the interdistrict inequalities could

[1] Formerly the internal revenue stamps, affixed to deeds in payment of the federal documentary stamp tax, provided a fairly effective check. There is apparently no reason why a state documentary stamp tax could not serve the same purpose.

[2] Cf. Simpson, *The Tax Racket and Tax Reform in Chicago*, pp. 11–25, for a statement of the proper use of sales records; also Nelson and Mitchell, *Assessment of Real Estate in Iowa and Other Midwestern States*, pp. 7–27. The usefulness of the sales method may also be studied in the publications of special and administrative tax commissions such as New York, California, Indiana, North Carolina, Minnesota, Wisconsin, Michigan; and in special surveys of assessments, many of which are cited in preceding chapters.

be remedied by the county or the state board of equalization. But it is a familiar fact that the assessment ratios of individual parcels of property, or of classes of property, within the assessment district are wider than the variations among the average ratios for different towns or counties. Moreover, these differences are much more significant than the differences among counties, since the local taxes are much heavier than those levied by the state. It is obviously impossible for a state board of equalization to equalize even approximately the numerous individual assessments in the state. This would involve not equalization but reassessment. It is clear, therefore, that the bulk of the work of equalization and of adding omitted property must be done by or through the local assessors or local equalizing agencies.

TABLE 84

HYPOTHETICAL ASSESSMENT RATIOS OF PROPERTY SHOWING EFFECT OF EQUALIZATION WHERE INTRACOUNTY AVERAGE DEVIATIONS VARY

Kind of Ratio	County X			County Y		
	Parcel C	Parcel D	Average	Parcel E	Parcel F	Average
Original	100	80	90	100	60	80
Equalized	100	80	90	112.5	67.5	90

Moreover, state equalization of county or town averages, where there are wide deviations among individual assessment ratios within some of the counties or towns, may do more harm than good, even for purposes of the state tax, as a very simple hypothetical set of figures will show, as in Table 84. Let us assume that in county X, one-half of the property, C, is assessed at 100 per cent; the other half, D, at 80 per cent of true value; that in county Y, one-half, E, at 100 per cent; and the other, F, at 60 per cent. Let us further assume that the 90 per cent in county X is taken as the standard to which the average of county Y must be raised. Then, since 90 is 112.5 per cent of 80, the correction factor necessary to raise Y to the standard of X is 1.125. After the equalization, E is assessed at 112.5 per cent; F, at 67.5 per cent; C and D remain unaltered. As far as the local taxes are concerned, the allocation has not been changed at all. As for the state tax, county X has been relieved, and county Y raised. In county X, C, excessively as-

sessed, is relieved; and so is D which was already underassessed and should have been raised. In county Y, E, already overassessed by 10 per cent, is burdened with another 12.5 per cent of true value, while F, relatively underassessed by 30 per cent of its value, is inadequately raised.

That existing conditions may be of this nature is indicated in Table 85, which shows the effects of revision by the Cook County board of review upon 2,056 properties, sold at fair consideration, which were reviewed during the period 1923–26, following the 1923 quadrennial assessment of real estate. The average assessment ratio for the county in 1923 was 35 per cent of full value. The distribution of the assessment ratios before the revision may be seen in the horizontal line of totals. The distribution after the revision may be seen in the vertical column of totals. The asterisks in each column indicate the ratio groups in which the properties of each column were contained before revision. With few exceptions, it will be seen, the effect of the "revision" was to depress the assessed values. There is only a negligible tendency, if any, to bring the assessment ratios of individual properties nearer the 35 per cent average for all the properties of the 1923 assessment. If the only result of local revision is to depress the valuation uniformly on overassessed as well as on underassessed and properly assessed properties, the local revision is not only useless and wasteful but vicious, and state equalization based thereon will create worse inequalities than it relieves.

Doubtless the California commission on revenue and taxation of 1906 had results of this nature in mind when it said:[1]

> Equalization, so-called, does not equalize, and in the nature of things, cannot equalize. After the officers have exhausted their best efforts in this direction, there are inequalities —glaring ones—between real and personal property; between different classes of personal property; between county and county; between city and city; between city and county; between man and man. All of which are rarely removed, and often intensified, by so-called equalization.

These are strong words—too strong, it would seem. Doubtless there was in 1906 glaring inequality, even between county and county

[1] *Report, 1906*, p. 10. Quoted by Lutz, *op. cit.*, p. 93.

which was the only form of inequality the board could remove with the powers left it by the courts. But, unless their efforts were wholly

TABLE 85

RESULTS OF REVISION OF "FULL-VALUE" ASSESSMENTS OF 2,056 PROPERTIES BY THE COOK COUNTY BOARD OF REVIEW, 1923–26†

Percentages of Assessed to Sales Value after Revision	Properties Assessed before Revision at Specified Percentages of Sales Value										
	91 and over	81–90	71–80	61–70	51–60	41–50	31–40	21–30	11–20	1–10	Total
101 and over	5*	....	....	....	....	....	....	....	....	....	5
96–100	....	....	....	....	1	2	....	....	....	....	3
91–95	9*	....	....	1	....	....	1	....	....	....	2
86–90	3	1*	....	....	....	....	....	....	....	....	4
81–85	5	5*	....	....	....	....	....	....	....	....	10
76–80	6	4	1*	....	....	....	....	....	....	....	11
71–75	9	2	3*	....	....	....	....	....	....	....	14
66–70	5	8	5	4*	....	....	....	....	....	....	22
61–65	5	4	8	5*	....	1	....	....	....	....	23
56–60	2	5	15	20	2*	2	....	....	....	....	46
51–55	4	....	7	23	11*	2	....	....	....	....	47
46–50	2	6	10	19	45	10*	2	1	....	1	96
41–45	1	....	7	18	43	47*	1	1	2	....	120
36–40	....	....	4	12	25	97	20*	2	2	....	162
31–35	1	2	2	9	40	108	129*	8	1	....	300
26–30	1	....	2	1	11	62	263	39*	1	....	380
21–25	....	....	2	2	4	29	172	178*	2	....	389
16–20	....	....	1	....	1	6	55	144	24*	....	231
11–15	....	....	....	....	....	....	9	27	78*	....	114
6–10	....	....	....	1	....	....	1	3	27	18*	49
1–5	....	....	....	....	....	....	....	....	....	18*	18
Total	58	37	67	115	183	366	653	403	137	37	2,056

† Adapted from Joint Commission on Real Estate Valuation for the Board of County Commissioners of Cook County, *A Study of Assessment Organization and Legislation in Its Application to Cook County* (1928), pp. 31–34.

* See p. 387 for meaning of asterisk.

perverted and aimless, the activity of the board in ordering changes was so great that in the absence of the board, the inequalities must have been still more glaring.[1] Moreover, while some of these inequal-

[1] Cf. Fankhauser, *op. cit.*, especially pp. 289, 331.

ities were clearly inevitable under the restricted powers of the California board, they are not inherent in the work of a board whose powers and information are adequate.

The capacity for mischief of injudicious leveling of county or township assessment ratios is increased by the fact that certain forms of property, chiefly personal property, more specifically intangibles, while they may largely escape listing, are likely when listed to be assessed at a high ratio. Few of the equalization agencies have seriously attempted to equalize personal property; but where the board must raise or lower all property in a county uniformly, if it changes any, personal property is "equalized," at least such of it as is listed, along with the rest. If a real estate mortgage, a bond, or money on deposit is assessed, as it is likely to be, if listed at all, at or near 100 per cent, and the aggregate county valuation is raised 10 per cent, 20 per cent, or by some other factor, then this particular property, on which the high general property tax operates with peculiar severity, is seriously discriminated against.[1] The same is true of such tangible personalty as livestock and merchandise. The problem with personal property is not so much to equalize it as to get it on the tax roll at all, uniformly for all classes.[2]

III. EQUALIZATION AS A REVENUE-CONTROLLING DEVICE

It is appropriate to point out a certain incidental use to which equalization can be put, and has in fact been put much more extensively than is generally suspected. This is the possibility and practice of

[1] It was evidently to prevent this sort of discrimination that an amendment to the California constitution was ratified in 1884 to the effect that the state board of equalization could not raise a mortgage, deed of trust, contract, or other obligation by which a debt is secured, or money or solvent credits above their face value.

[2] Cf. *Tenth Annual Report of the Illinois Tax Commission*, p. 68. "The problem of equalizing personal property is one of discovery and original assessment rather than of changing ratios of over- and under-assessment, as in the case of real estate. No equalization method can be satisfactorily employed in the equalization of this type of property." The commission has consequently not attempted to equalize personal property since its organization in 1919. The state board of equalization which preceded the commission had no such scruples. And when in its later years it did fall into the habit of making no changes in the personal property assessments it did not hesitate "to add to the offence of inaction its solemn assertion of belief that the local personalty valuations were just and equitable between the counties" (cf. Lutz, *op. cit.*, pp. 68–72; also *Report of Special Tax Commission of Illinois, 1910*, pp. 63–65).

using the equalizing process as a device for controlling the revenue to be raised, as appears desirable—for reasons good or bad—to the board of equalization. This use is made possible by the fact that the equalizing agencies have not usually found it expedient or necessary to try strenuously or at all to raise the valuations uniformly for all counties to 100 per cent or some percentage lower than 100, where such is required by law. Equalization can be made at the 50 per cent or any other level. And in such discretion as the equalization agencies may possess lies what they possess of revenue-controlling power.

Where, as in Illinois, the percentage increase or decrease that can lawfully be ordered in the original assessments is narrowly restricted, the equalizing agency is evidently not intended to have any appreciable control over the aggregate valuation and hence over the revenue. But where, as is now usual, there is less restriction or no restriction at all on the changes that may be ordered, and where equalization at 100 per cent is not required or attained, the discretionary power may be considerable. If the board is bent upon reducing public expenditures, it may, if the tax rates possess any degree of rigidity, affect some more or less temporary reduction through equalization at a low ratio. Conversely, if the revenue threatens to be inadequate, not only may the board equalize on a higher ratio, but it may also lend its efforts to enter omitted property more fully, encourage original assessments at a higher level, or induce the local assessors to make a more complete listing. Interesting testimony to this effect comes from California:

The indirect influence of the board on valuation of property is, perhaps, best illustrated by a reference to the assessment for 1907. After the San Francisco earthquake and fire, the state board became alarmed at the possible decrease in the assessment roll. Should the anticipated decrease take place, the board would have had to raise the valuation, or the tax rate, or both. With the hope of preventing such an occurrence, the members of the board visited every county of the state and urged the assessors to increase the valuation of property, or at least to keep it up to the figures of the preceding year. The result was a happy surprise. When the valuation of property was completed it showed an increase of $251,618,063 over that of the previous year, and, in fact, was one of the largest increases for any year since the adoption of the code in 1872.[1]

[1] Fankhauser, *op. cit.*, p. 330.

It is not entirely pedantic to argue against this manipulation of the level of equalization for purposes incidental to the main purpose of equalization. To do so tends to confuse the issues. As long as the tax law requires a 100 per cent valuation, the object should be to equalize at that level, or at some stable lower level. If the assessment ratio is stable, then, with a given standard of public expenditures, the tax rate furnishes some sort of an index of the burden. With a manipulated assessment ratio, another elastic factor is introduced. Moreover, the practice of manipulating the assessment ratio, even by the board of equalization and for what may be temporarily a laudable purpose, strengthens the all too prevalent notion that the taxable value is not a matter of fact, but a thing to be bargained about and lied about if necessary to reduce taxes of certain governmental units.

To sum up, the equalization and reviewing devices, properly used, possess some capacity for making the general property tax more nearly uniform. There is now no way to measure historically and accurately the leveling influence of review and equalization, as they have been practiced in the United States. Unquestionably the gains in uniformity have been far from what they might have been had the agencies for review and equalization been properly selected, instructed, endowed with power and financial support, provided they had employed a proper statistical technique. Equalization is primarily a technical statistical problem. It is now regarded, however, as much less of a panacea than it was a decade or two ago. It is now understood that equalization is only one way in which state control of and supervision over local assessments can be effected. To the other ways of effecting improvements in the assessments through state activities we must now turn.

CHAPTER XVI

CENTRAL CONTROL OF THE ASSESSMENT

Supplementary to the efforts of state boards of equalization to equalize the local assessments, there have developed, especially since equalization has been found to have serious limitations, several other attempts to improve the assessment, having in common a greater degree of central control. The central administrative bodies have exercised control in various ways, of which the following are the most important: first, by supervising, instructing, and directing the local assessor; second, by ordering the local assessors to reassess property or by undertaking such reassessment themselves; and third, by assuming complete responsibility for the assessment of certain classes of property which experience has shown to be peculiarly unsuited for local assessment.

As a matter of fact there has also been considerable intracounty centralization in states where the township organization prevails. In those states the task of assessment of general property is now often shared by certain supplementary officers or bodies, usually in a supervisory capacity only, although in recent years in a directive and administrative capacity as well. Minnesota may be taken as typical of those states in which the evolution has been toward making the county auditor virtually county assessor, with the local assessors functioning as deputies.[1] His duties may be listed as follows:[2]

1. To approve and file the required $500 bond of the assessor.
2. To appoint an assessor in case the town board neglects to fill a vacancy, and to approve any deputy appointed by the assessor.
3. To provide all needed lists and books for the assessor. On the appropriate lists he is to have entered all taxable real estate, thus leaving only the making of the valuation to the assessor.

[1] Ohio, Indiana, Illinois, Iowa, Nebraska, and the Dakotas would serve nearly as well.

[2] *Report of Tax Commission, 1920* (quoted only in part).

4. To receive the list and books of the assessor when the work of that official is completed. Thereupon it is his duty to try to find omitted property and to return the list to the assessor for valuation of such property.
5. To certify approval of the completed work of the assessor. The certificate issued must be filed with the town clerk before the assessor can draw his pay.

In part, these functions are routine in character. It cannot be said that their assignment to the county auditor has made him county assessor. Still, his position is not unlike that of the ex officio county assessor in such a state as Kansas, where the county clerk, as county assessor, must select the township trustees as his deputies. By an extension of the functions given to the auditor, and a consequent limitation of the functions of the local assessor, some degree of central control has been effected. With the ingrained tradition of home rule, little more has been possible so far.

Some administrative state control there has always been, but until within the past twenty-five years it was incidental, irregular, and ineffective, as it is still in many states. State officers, such as the auditor, comptroller, treasurer, whose duties had to do with the state tax on property, necessarily were faced with the task of improving assessments for state taxes. The experiences and recommendations of these officials resulted more often in additional statutory rules than in administrative machinery for state control. After the Civil War, the special tax commissions appointed in many states almost invariably recommended stronger centralized control than the people would tolerate. Yet, under the pressure of necessity, the recommendations have been reluctantly and slowly heeded: first, through the creation of ex officio state boards of equalization; second, through the designation of various state agencies for the assessment of certain property; and third, through provision for general supervision of assessments and the entire revenue system.

I. THE STATE TAX COMMISSION

It is not necessary to deal at great length with the development of the administrative tax commissions. This has been ably done by H. L. Lutz,[1] but since Lutz's book appeared in 1918 several changes have

[1] H. L. Lutz, *The State Tax Commission.*

occurred. Table 86 is, therefore, presented to show present conditions. The table shows the year in which administrative "tax departments" were first organized in each state. Since these departments, as Lutz called them, have been changed, in some states several times, the year in which the department was accorded its present status is also given. The membership of the commission, the term of office, the salaries of the members, and the method of selection are likewise given. The functions of the commissions are very imperfectly indicated.

Table 86 is not intended to give a complete picture of the organization and work of the tax commissions of all the states, but only in a general way of such of their functions as relate to the general property tax.[1] In New York, for example, the tax commission equalizes assessments for state purposes only; it assesses only special franchises and, on occasion, appraises such other property as is difficult for the local assessors to assess; it exercises chiefly only indirect control and supervision in the local assessment. Yet the New York tax commission is the most elaborately organized commission in the country and the best supported financially. In 1928 the department of taxation and finance, of which the tax commission is one division, expended $3,832,344.17, and employed 1,474 persons.[2] It collected in the same fiscal year $229,214,084.34, exclusive of the receipts of the bureau of motor vehicles, at a cost of 88 cents per $100 collected. But the bulk of the work and expenditures of the department are concerned with the administration of the franchise tax on business corporations, the complicated inheritance tax, motor-vehicle-license taxes, the gasoline tax, the bank-stock tax, taxes on insurance companies, the personal income tax, the mortgage-recording tax, and the stock-transfer tax.

The diversity of functions and the scope of the activities of the New York state administrative body are due to the complexity of the tax system of that state, and to the extent to which the administrative functions of taxation and finance have been concentrated in that body.

[1] For more elaborate tables on the organization and functions of the state tax commission, cf. National Industrial Conference Board, *State and Local Taxation of Property*, pp. 232–40, Tables 21, 22. Also, The National Tax Foundation, *Status of Certain Tax Matters in the Various States*, January 1, 1930.

[2] *Report of Tax Commission, 1928*, pp. 72, 73. The tables there given furnish a general idea of the scope of the work of this organization.

New York contrasts sharply with Texas in that respect. In Texas the necessary administrative functions of a tax system much simpler than that of New York are scattered among various bodies. The tax board of Texas, of which the tax commissioner is a member, was created in 1905, and given additional functions in 1907. Its duties, except for the assessment of the "intangible assets" of railroads and a few minor public utility corporations, were investigational and informative. In practice its only work has been to administer the "intangible assets tax."[1] Most of the other states occupy an intermediate position between Texas and New York, in respect to the degree of development of a diversified system of taxation, and in respect to the degree of concentration of fiscal functions in the state tax commission. In both states, however, the administration of the property tax is extremely decentralized—in New York this is accounted for by the relative insignificance for state purposes of the general property tax.[2]

While the states differ with respect to the character of their tax commissions, as far as property taxation is concerned, there is a strong tendency to uniformity in essential features, but a wide diversity in the extent to which the centralization of assessment has been carried. These latter differences will appear more in detail in later sections of this chapter. For the moment it is intended merely to point out some of the general similarities and dissimilarities. In twenty-six states the commission has three members; in seventeen there is only one commissioner, who, however, in many of these states must work with some ex officio board, particularly in ordering reassessments, equalizing

[1] Miller, *A Financial History of Texas*, pp. 266–88. An interesting demonstration of the necessity for state control is found in the experience of this board in administering the intangible assets tax. The board assessed the intangible value of railroads and some other corporations at $152,827,000, the first year. The county boards of equalization proceeded to reduce this sum to $30,803,000, or 20 per cent, when it was apportioned to the counties for taxation. The absurdity of having the county boards equalize property assessed by a state board is obvious. But in view of the uniformity rule, and of the varying assessment ratios of the counties, which are not equalized by any state, such an absurdity is necessary, since otherwise there would be inequality between locally assessed and centrally assessed property. See Miller, p. 288, and cases there cited.

[2] New York does, however, employ various indirect devices to induce equitable assessment of real estate, one of which is the apportionment of a part of the income-tax revenue to the localities on the basis of the assessed valuation of real property.

TABLE 86

TAX COMMISSIONS OR OTHER CHIEF STATE ADMINISTRATIVE BODIES, 1930*

State	Name	Year First Created	Year Present Body Organized	No. of Members	Term of Office, Years	Salary	Method of Selection	May Order Reassessment	Equalizes Property	Assesses Certain Corporate Property	Exercises General Supervision
Alabama	TC	1907	1931	1	Ind	$ 6,000	Ap	Yes	No	Yes	Yes
Arizona	TC	1912	1927	3	6	3,000	El	Yes	Yes	Yes	Yes
Arkansas	TC	1909	1927	3	8	4,000	Ap	Yes	Yes	Yes	Yes
California	TC	1879	1929	1	Ind	4,000	Ap	No	J	Yes	Yes
Colorado	TC	1911	1911	3	6	3,600	Ap	Yes	No	Yes	Yes
Connecticut	TC	1901	1901	1	4	8,000	Ap	No	J	Yes	J
Delaware	TC	1921	1929	3	4	6,000	Ap	No	No	No	No
Florida	ET	1913	1921	1	Ind	4,000	Ap	J	Yes	No	Yes
Georgia	TC	1913	1913	1	6	4,000	Ap	Yes	Yes	No	No

* The following abbreviations are employed:

TC .... Tax commission or commissioner.
ET .... Equalizer of taxes—in Florida only.
BBT .... Bureau of budget and taxation in the office of the governor—in Idaho only.
BAR .... Board of assessment and revenue—in Iowa only.
SA .... State board of assessors—in Maine only.
CCT .... Commissioner of corporations and taxation—in Massachusetts only.
BE .... Board of equalization. In Montana this board is in fact a tax commission.
BTA .... Board of taxes and assessments—in New Jersey only.
CR .... Commission of revenue—in North Carolina only.
SR .... Secretary of revenue—in Pennsylvania only.
DT .... Director of taxation—in South Dakota only.
ST .... Superintendent of taxation—in Tennessee only.
Ind .... Indefinite tenure of office.
Ap .... Appointive.
Ex .... Ex officio.
El .... Elective.
J .... Jointly with board of equalization or some similar body.

TABLE 86—*Continued*

State	Name	Year First Created	Year Present Body Organized	No. of Members	Term of Office, Years	Salary	Method of Selection	May Order Reassessment	Equalizes Property	Assesses Certain Corporate Property	Exercises General Supervision
Idaho	BBT	1913	1921	1	Ind	$3,300	Ap	No	No	No	No
Illinois	TC	1919	1927	5	2	6,000	Ap	Yes	Yes	Yes	Yes
Indiana	TC	1891	1891	3	4	4,500	Ap	Yes	Yes	Yes	Yes
Iowa	BAR	1929	1929	3	6	4,500	Ap	Yes	Yes	Yes	Yes
Kansas	TC	1907	1927	3	6	4,500	Ap	Yes	Yes	Yes	Yes
Kentucky	TC	1917	1917	3	4	5,000	Ap	Yes	Yes	Yes	Yes
Louisiana	TC	1921	1921	3	6	5,000	Ap	Yes	Yes	Yes	Yes
Maine	SA	1891	1891	3	6	2,500†	Ap	Yes	Yes	Yes	Yes
Maryland	TC	1914	1915	3	6	5,000†	Ap	Yes	No	Yes	Yes
Massachusetts	CCT	1864	1864	1	3	7,500	Ap	Yes	Yes	Yes	Yes
Michigan	TC	1899	1927	3	6	5,000	Ap	Yes	Yes	Yes	Yes
Minnesota	TC	1907	1907	3	6	4,500	Ap	Yes	Yes	Yes	Yes
Mississippi	TC	1916	1916	3	4	3,300†	Ap	No	Yes	Yes	Yes
Missouri	TC	1917	1917	3	6	4,500†	Ap	Yes	Yes	Yes	Yes
Montana	BE	1913	1921	3	6	5,000	Ap	No	Yes	Yes	Yes
Nebraska	TC	1921	1921	1	2	5,000	Ap	J	J	Yes	Yes
Nevada	TC	1913	1913	6	4	600†	Ap	Yes	J	Yes	Yes
New Hampshire	TC	1911	1911	3	6	3,000†	Ap	Yes	Yes	Yes	Yes
New Jersey§	BTA	1915	1915	5	3	4,500†	Ap	Yes	Yes	Yes	Yes
New Mexico	TC	1915	1915	3	6	4,000	Ap	Yes	Yes	Yes	Yes
New York	TC	1896	1926	3	6	10,000†	Ap	No	Yes	Yes	Yes

† Presiding member's salary is higher: In Maine, chairman, $3,500; Maryland, chairman, $6,000; Mississippi, chairman, $4,500; Missouri, chairman, $5,000; Nevada, secretary, $3,000; New Hampshire, secretary, $4,000; New Jersey, chairman, $5,000; New York, president department taxation and finance, $12,000; Rhode Island, chairman, $6,000; South Dakota, secretary department of finance, $5,000.

TABLE 86—*Continued*

State	Name	Year First Created	Year Present Body Organized	No. of Members	Term of Office, Years	Salary	Method of Selection	May Order Reassessment	Equalizes Property	Assesses Certain Corporate Property	Exercises General Supervision
North Carolina	CR	1901	1921	1	....	$7,500	Ap	No	J	Yes	Yes
North Dakota	TC	1912	1912	1	6	4,000	Ap	Yes	J	Yes	Yes
Ohio	TC	1910	1910	3	6	4,000	Ap	Yes	Yes	Yes	Yes
Oklahoma§	BE	1907	1907	7	Ex	....	Ex	No	Yes	Yes	Yes
Oregon	TC	1909	1909	3	4	4,800	Ap	Yes	Yes	Yes	Yes
Pennsylvania	SR	1929	1929	1	4	12,000	Ap	No	Yes	No	No
Rhode Island	TC	1912	1912	3	6	5,000†	Ap	No	No	Yes	No
South Carolina	TC	1915	1915	3	6	2,500‡	Ap	Yes	Yes	Yes	Yes
South Dakota	DT	1913	1925	1	6	3,600†	Ap	Yes	J	Yes	Yes
Tennessee	ST	1923	1923	1	6	5,000	Ap	No	J	No	Yes
Texas	TC	1905	1907	1	2	2,500	Ap	No	No	J	No
Utah	TC	1898	1931	4	6	5,000	Ap	Yes	Yes	Yes	Yes
Vermont	TC	1882	1929	1	2	4,000	Ap	No	No	Yes	No
Virginia	TC	1916	1926	1	4	6,000	Ap	No	No	No	Yes
Washington	TC	1905	1925	3	6	6,000	Ap	Yes	Yes	Yes	Yes
West Virginia	TC	1904	1904	1	6	6,000	Ap	Yes	No	No	Yes
Wisconsin	TC	1899	1899	3	8	5,000	Ap	Yes	Yes	Yes	Yes
Wyoming	BE‖	1909	1909	3	4	3,000	Ap	No	Yes	Yes	Yes

‡ Members, other than chairman, $5.00 per diem and expenses.

§ Tax commission provided for, 1931. New Jersey (one member) and Oklahoma (three members).

‖ Ex officio, public service commission.

local assessments, and taking other steps not of a routine character. Three states have commissions with five members; in one state there are four; in one, six; and in one, seven. If the ex officio members in the states with a single commissioner are included, the numbers are still more varied. As stated in connection with equalization in chapter xv, there is no conclusive argument for an ex officio membership. There is also no convincing argument for a membership larger than three. If the majority rules in this case, a commission with three members of equal authority and with equal compensation appears to be the best arrangement. If the terms are long and overlapping, there will not be the discontinuity of direction which may be a feature of the single-commissioner system. On the other hand, three members should be enough to secure balance of judgment, without involving the unwieldiness and opportunities for log-rolling inherent in the larger boards. Something can be said for the single-commissioner system, provided the commissioner is not made the errand boy of an ex officio board. In Pennsylvania and South Dakota, two states otherwise decidedly unlike in their tax systems, the chief administrative tax officers[1] have been placed in charge of departments. New York, where the president of the department of taxation and finance and two associated tax commissioners form the tax commission, attempts to combine the independent tax commission with the departmentalized form of government. The question of how to choose between or combine the independent tax commission and a department of finance with a single cabinet officer in charge is not yet solved. It seems, however, that the tax commissions have been quite effective, in comparison with commissions for other governmental purposes, and in view of the limited powers and the inadequate appropriations with which they have had to work.

In forty-six states the commissioners are appointive, usually by the governor,[2] sometimes with the consent of the senate. The terms vary from two years to eight. They should be long, and there should

[1] Secretary of revenue, and director of finance, respectively. In Pennsylvania there is no state property tax; and the supervisory functions of the state over local property taxes are negligible.

[2] In New Hampshire, by the supreme court, and in Oregon, by a board consisting of the governor, secretary of state, and state treasurer.

be no bar to reappointment. The salaries vary considerably, from $1,500 in Arizona to $10,000 in New York. It is not contended that the compensation should be uniform in all the states; there are good reasons why it need not be. But in many states it is too low to enable the state to secure, or reasonably demand, the kind of service required.[1]

II. THE SUPERVISORY FUNCTIONS

The supervisory functions of the administrative tax commissions are often negligible, as in Delaware, Georgia, Idaho, Oklahoma, Pennsylvania, Texas, and Vermont. They are substantial and effective in other states, as in Indiana, Kansas, Michigan, Minnesota, New Jersey, Ohio, and Wisconsin. Not always is the commission with the most extensive authority on the statute books the most effective. But without authority to hold hearings, demand evidence, administer oaths, issue orders which shall have some degree of finality, and without reasonably adequate appropriations, the best intentioned and most capable commissioners can exercise but little supervision.

Obviously, broadly stated it is the duty of the tax commissioners to administer the tax laws of the state. It is often the duty of the tax commissions to administer income, inheritance, and other tax laws. Except for the central assessment of property, to be discussed below, it is not usually the duty of the tax commission to administer, but merely to supervise and to participate in the administration of the general property tax. On its own initiative or upon complaints of taxpayers or assessors, it usually is and should be the duty of the tax commissions to hold hearings and issue orders. The commission should be the court of first instance in questions of law, and the tribunal of last resort in questions of fact. No other body is as effectively in position to know the facts. Were the courts to review the facts, no facts found by any commission would be final.

It is a labor-saving device for the commission to be the agent of the state in cases of tax-law administration. To the commission come or should come disputes from taxpayers with assessors, assessors with boards of review, and taxpayers with boards of review, as to valuation or exemption. To it should be brought in the first instance disputes

[1] In several states it is the practice to pay the chairman a higher salary than the associate commissioners. Cf. Table 86, *supra*.

concerning property assessed by the state assessing board, which is usually the tax commisssion itself. The commission does or should maintain a legal department or at least legal counsel. There would be many more court cases were it not for the tax commission, and many of those that arise can be much more economically and effectively handled by the commission than by the assessors or the boards of review.

Its work of supervision should not be limited to cases arising out of complaints. The plaintiffs would then be only the taxpayers with taxes heavy enough to warrant complaints, or groups of taxpayers organized to make complaints. Of such origin are in fact the majority of the complaints, and still more so the cases that are taken past the commission to the courts. In the last analysis the commission exists primarily in order to protect the taxpayers against each other.

In property taxation as elsewhere an ounce of prevention is worth a pound of cure. And here is the richest field of usefulness for tax commissions in preventing disputes by so directing the assessment that the number of disputes will be minimized. For, once the trouble has begun, particularly if it has entered upon the stage of a complaint, and still more so if it has reached the stage of a lawsuit, it is more likely to be productive of merely another law than of justice to the contestants. Moreover, the grievances are usually of such a nature that resort to complaints and litigation will seldom yield a satisfactory remedy, because the complaints usually involve questions of valuation, which are largely a matter of judgment. Against the assessor in case of disputed valuation the remedy is particularly difficult. If he can be convicted of malfeasance or nonfeasance in office, he can be removed and punished through proper trial. But there is scant likelihood of such action. For inefficiency which can be explained as an error of judgment there is no effective remedy through the courts. There is, of course, now generally a remedy through appeal to some local or state board of review, upon complaint of aggrieved taxpayers or sometimes upon the initiative of the board of review. But such a remedy is generally for the correction of an erroneous assessment. It would be much better to have the original assessment correctly made. The tax commission can seldom compel, but it can be much more effective in training the assessor to be accurate and efficient. Sometimes the commis-

sion may proceed against the assessor for inefficiency. The Minnesota commission may appeal to the governor, who may remove an inefficient assessor.[1]

A large part of the work of the commission must, therefore, be educational in character. One definite task is or should be to prepare suitable forms for the listing of property and to change these lists from time to time to include or emphasize new forms of property, or to drop obsolete items from the duplicate. The importance of suitable lists is unquestionable in view of the rapidly changing and ever increasing variety of personal property. If an item is not on the blank, demanding the assessor's attention, it is not likely to be listed at all; and the continuance of obsolete items on the list is expensive, as it crowds out more important items.

Though it is obligatory in some states, and surely permissible in all, to adjust the property tax schedule as required, it is evident that not all tax commissions do so. The Colorado law creating the tax commission in 1911 assigned to it the task of preparing all necessary forms. In 1930 it was found that:[2]

From a comparison of the tax schedules in use it would appear that no central authority has standardized the general schedule. Although the tax commission has exerted its influence toward making the schedules uniform, they are yet very diversified as to size, form, arrangement, items listed and affidavits or oaths required. It would appear that the general schedule blanks are designed to serve for all classes of taxpayers, whether individuals or corporations, banks or merchants, etc., with or without supplementary schedules. Not one of the blanks examined provides for the appraisal of exempt property. Many of them do not provide space for gross credits and for deductions, so that the operation of the process of determining the net credits can be seen on the schedule. The list of items of property is not uniform, nor is the list uniformly arranged.

Obviously several beneficent changes could be made. The general schedule should be uniform and designed to take care of the large run of ordinary persons. Special schedules should be prepared to meet the conditions of particular classes of taxpayers such as banks, building and loan associations,

[1] In 1910 two appeals to the governor were made, but before he could act the assessors straightway resigned (*Report, 1910*, pp. 22, 23). Similar cases can be cited for Wisconsin, Kansas, and other states where the commission has been active.

[2] Cf. Jensen, *Survey of Colorado State Tax System*, pp. 86–88.

merchants, manufacturers, filling stations, etc., and possibly for use in assessing special classes of property such as intangibles. Each blank should be uniform throughout the state. The tax commission should prepare these forms and require their use. Otherwise the commission is seriously hampered in enforcing the law, and in preparing its reports,[1] whose accuracy and speedy publication are important to the legislature, the assessing officials and the general public as well.

The tax commission also instructs local officials as to their duties. The instructional and educational duties of the Minnesota commission may be taken as typical of the best commission practice. The commission is required to instruct the county auditor and especially the township assessors respecting the assessment of property. To this end it is required that the commission, or one of its members, shall visit not less than one-half of the counties of the state each year, and shall meet the assessors of each county at the office of the county auditor at least once every two years. Assessors' manuals are regularly issued as a part of this educational work. Assessors are required to attend the county meetings and are allowed a per diem of $4.00 and mileage of 5 cents per mile.

The Minnesota commission has arranged conferences at the state capital for the county auditors. Washington requires such conferences, and there, as well as in a number of other Western states, expenses are allowed. In other states, e.g., New York, the meeting or conference is arranged through a state tax association, consisting chiefly of assessors and supervisory officials.

[1] How the use of these improper schedules can vitiate statistical data may be seen from a comparison of the assessment of Colorado money and credits for 1928 and 1929. In the latter year the assessed value rose from $16,589,782 in 1928 to $51,485,214, or from 1.05 per cent of the total assessment to 3.24 per cent, or from $16.20 to $49.83 per capita. Perhaps some future statistician will risk his reputation upon an explanation of this vagary of Colorado money and credits assessments. Furthermore, he will wonder why all of this increase occurred in Denver. The explanation is simple. In 1928 the Denver assessor reported his net assessments, after deducting debts, according to his custom. For some reason, in 1929, he reported his gross. His net assessments were, in fact, some $2,000,000 less in 1929 than in 1928. While the Denver assessor had apparently reported his net assessments prior to 1929, there is no assurance that the other county assessors had done so uniformly. Not only are the 1929 figures incorrect, but the earlier data become of questionable validity (Jensen, *op. cit.*, pp. 73–78).

The commissions' most general function is the study of revenue systems and the making of recommendations to the legislature for improvement of the laws. The legislatures have not always or completely accepted the recommendations of the commissions. Such recommendations, if worth anything, are in advance of what the electorate will support, so that considerable time must be allowed for the educational measures to take effect before legislatures can be expected to heed them. Nevertheless, the tax legislation of many states bears distinct evidence of the competent guidance of the tax commissions; this has been especially true in Massachusetts, Wisconsin, and New York. However, the persistence of the small assessment unit, even in New York, Wisconsin, and Minnesota, despite the fact that the commissions have recommended the county unit, is proof enough that the recommendations of a tax commission are not always favorably received.

III. REASSESSMENT

As a last resort, except for central assessment of certain property, to be discussed in the following chapter, the tax commission has the power in a few states to make or order a reassessment when for some reason the regular assessment has been found to be unsatisfactory. The term "reassessment" applies, especially in some Eastern states, to the regular periodical assessments of real property, and, to the irregular assessments formerly required by legislative action, when the cadastral records had become too far out of line with actual values. The term is used here to indicate an extraordinary assessment covering certain items, or certain classes of property, or all the property in certain tax districts, when the original assessment is found to be unsatisfactory.[1]

The Minnesota commission may reassess, upon complaints of taxpayers or local tax officials, or upon its own initiative, not only individual items, but also particular classes, or all property in selected districts. The power has been used conservatively, as a last resort, when equalization could not be had by other means, chiefly upon complaints; but the power to reassess has to a considerable extent eliminated the necessity for exercising it. The power has been exercised

[1] The following summary has been drawn to a large extent from an unpublished thesis prepared by Mr. Leo Spurrier in the University of Kansas, 1924.

most widely in the assessment of money and credits for taxation at the three-mill rate. The commission believed that in view of the low rate there could be no good reason for not listing this class of property, and that, therefore, such evasion merited harsher measures than would be morally justifiable for property subject to the general and much higher rate.

The experience of the Minnesota commission furnishes one incident which shows clearly the justification, not only for the tax commission, but also for the possession by the commission of the power to reassess, in order to prevent escape of property through technicalities in the tax law. In this case[1] the county auditor reassessed a parcel of realty, including a building which the assessors for a number of years had failed to take into account. The auditor could add omitted property, but could not reassess property already assessed; and, since the building was part of the land upon which it stood, it was not a case of omission, but of undervaluation of the entire item. Reassessment was, therefore, the only means by which the escape of the building for both the current and the earlier years could be prevented.

In Minnesota the bar of unconstitutionality has been invoked, though unsuccessfully, against reassessment. In *State* v. *Minnesota and Ontario Power Co.*,[2] the plaintiff in contesting a reassessment claimed that since the constitution provided for the election of regular assessors, the appointment of special assessors to conduct the reassessment was unlawful. Since, however, there is no constitutional prohibition against the appointment of such assessors, the court saw no reason to hold it illegal so long as it was permissible within the statute. In West Virginia[3] a similar claim in 1921 met a like fate. The latter decision declared that the legislature has the right to provide means for the enforcement of the laws, if the assessor does not enforce them, by means of the tax commission and special assessors.

In Michigan, between 1899, the date at which the tax commission was first organized, and 1911, the date at which it was finally given unrestricted powers of reassessment, there was a good deal of experimentation. The commission may now order reassessments of any or all property in any district upon complaint or upon its own initiative.

[1] *Davidson* v. *Franklin Ave. Investment Co.*, 129 Minn. 87.

[2] 121 Minn. 421.

[3] *Tax Commission* v. *Rocke*, 113 S.E. 647.

When it has placed a value upon any property, the local assessor may not reduce this valuation for three years without the consent of the commission. The provision speaks for itself, as to the intention of the legislature. The commission, although it has been given almost unlimited power to bring about a "true cash value" assessment, has had its powers curtailed by insufficient appropriations.

TABLE 87

NUMBER OF COUNTIES IN PERCENTAGE GROUPS REPRESENTING THE RATIO OF EQUALIZED TO FULL VALUE, MICHIGAN*

Percentage Groups	1911	1914
55-59.9	1	....
60-64.9	5	....
65-69.9	7	....
70-74.9	7	1
75-79.9	42	4
80-84.9	15	4
85-89.9	5	70
90-94.9	....	3
95 and over	....	1
Numbers of counties	82	83
Mean percentage	76.6	86.9
Standard deviation (percentage)	6.25	3.25
Coefficient of dispersion†	8.16	3.74

* Adapted from Spurrier, *op. cit.*, p. 50, on basis of data in reports of the commission.

† Standard deviation divided by the mean percentage.

In 1911, upon being given powers of reassessment upon its own motion, the Michigan commission undertook to reassess all the counties in the state as soon and as thoroughly as possible. The plan was not fully carried out, but it appears that much was achieved toward a more equal assessment. Some of the results may be seen from Table 87, which shows the ratios of assessed to true valuation in the different counties of the state in 1911 and in 1914. In the former year the mean ratio was 76.6 per cent, while in the latter it had increased to 86.9 per cent. The increase in itself is notable, but it is much more significant that the standard deviation fell from 6.25 per cent to 3.25 per cent in the same period.

Since 1920, when practically every county had been covered, reassessments in Michigan have been few. First, the commission states that there is less need for them, once the power to reassess is demonstrated generally. Second, the theory has grown up that the function of the reassessment is properly used when sparingly applied, because it is both expensive and galling to the taxpayers affected. Third, the commission has had much other work to do and has lacked sufficient funds for extensive reassessments.

Wisconsin has had a varied experience with reassessments. Enacted in 1905 and applied in 1906, the reassessment law was held unconstitutional in 1906 and remained ineffective until 1910 when the earlier decision was reversed.[1] At first the law was very liberal in the power granted, but in 1917 the power to order reassessment was made conditional upon petition. After several changes, the commission may now order reassessments only upon petition of the owners of 5 per cent of the property in a district.

The present law has several defects. First, the commission cannot upon its own motion initiate a reassessment. Second, the requirement that the owners of 5 per cent of the property must petition for a reassessment favors the large property holders. Third, the maximum compensation that can be paid is five dollars per day for both the services and expenses of the assessors; this is inadequate. Finally, all the property in the district where the complaint arises must be reassessed. In Michigan and Minnesota the commissions may reassess specific descriptions and classes of property without assessing any items already satisfactorily assessed. This can, however, since 1929, be done in Wisconsin also under the name of "revaluation," where specific properties are involved.

The courts have, since 1910, liberally upheld the Wisconsin commission. Thus, they have held valid the practice of charging the cost of the reassessment to the tax district in which it is made.[2] Again it was held that, within reason, there was no limit to the number of years past for which reassessments might be made.[3] In still another case[4] the

[1] *Hessey* v. *Daniels*, 143 Wis. 649.

[2] *Attorney General* v. *Hamerlund*, 159 Wis. 315.

[3] *Knaus et al.* v. *Rollof et al.*, 190 N.W. 463.

[4] *Blair* v. *Erickson*, 171 Wis. 205.

court ordered a town clerk to use the reassessment rolls as the basis for the extension of the local tax roll.

Even though thus restricted, the commission has clearly improved the assessment through the actual and potential use of the power to reassess. Thus, in 1911, when the power to reassess became effective, the average assessment of property was less than 65 per cent of the market value, and specific parcels varied in their assessment all the way from 10 per cent to 200 per cent of the market value. In 1917, when the power was assailed and limited by the legislature, the average assessment had risen to 85 per cent of the market value, and the deviations had been to a large extent removed.[1]

Owing to the costliness of reassessment the commission has long been considering a device that would make it unnecessary. The number of applications for reassessments in Wisconsin are apparently not as numerous as formerly. Thus, while 108 applications for reassessments were received by the commission during the decade 1921–30—45 were ordered—only 47 of the applications were received and 18 of the orders made during the last seven years of the period.[2] The commission thus describes its recommendation:

> The making of a reassessment is relatively a rather expensive process as it involves a completely new assessment. The situation may call rather for the avoidance of future bad assessments than for the complete revision of past assessments. Such an alternative has been considered by the Commission for some time and was passed by the 1929 legislature. Under this method, the Commission may in lieu of ordering a reassessment direct that the succeeding year's assessment be especially directed by the Commission to the end that future assessments be made upon a proper basis. This plan has so far been applied to several cases and where the direction given to the assessor was sufficiently detailed, the results have proved very satisfactory.[3]

Reassessment in Illinois has had publicity beyond that ever accorded to it in any other state, because of the reassessment of Cook County real estate ordered in 1928. The 1919 act creating the tax commission conferred upon the commission authority to order reassessments. This authority was enlarged in 1928, so that at present an

[1] Cf. Lutz, *op. cit.*, pp. 240 ff.

[2] *Report of Wisconsin Tax Commission*, *1930*, p. 12.

[3] *Ibid.*, p. 12.

order may be made at any time upon application or on the commission's motion, covering any district and any class of property. The only restriction now hampering the commission is the requirement that the reassessment must be made in the same manner, that is, by the officers who made the original assessment. The commission believes that better results could be obtained if the law were to permit the making of the reassessment by appointees of the commission, when such procedure should seem desirable.[1]

During the period 1923–29 the commission has issued 14 reassessment orders affecting 8 counties and 183 townships therein. All except the Cook County reassessment order of 1928 have been upon complaints and applications filed by individual taxpayers, boards of review, taxpayers' associations, farm bureaus, and the Illinois Agricultural Association. The Cook County order was made upon the commission's own motion, technically at least. Everywhere, except in Cook County, the complaints were that farm real estate was overassessed in comparison with city lots. Complaint on personal property assessments appears only once. In the hearings held to decide whether a reassessment order should be issued, the commission has admitted data secured by interested parties, as it has no data of its own.[2] In every instance the reassessment hearings and orders have produced much excitement and local publicity. The publicity attending the Cook County reassessment was nation-wide or perhaps world-wide, owing to the magnitude of the task and the obstructionist tactics pursued by the local assessing and reviewing officials. The Cook County reassessment constitutes a critical test of the reassessment device.

The initial stimulus to the Cook County reassessment order was the evidence presented in a series of hearings held upon complaint that real estate assessments, required by law to be published, had not in fact been published since 1899.[3] At these hearings, the inequalities in the

[1] The principal source for the discussion of reassessment in Illinois is the *Tenth Annual Report of the Illinois Tax Commission* (1929), pp. 80–193, and sources there cited.

[2] The commission has recommended the establishment of a statistical division in order that it might have the necessary value data to better decide upon the needs for equalization and reassessment (*ibid.*, pp. 41–42, 127).

[3] Cf. *ibid.*, especially p. 163, and sources there cited.

real estate assessments, the ineffectiveness of the quadrennial assessments[1] and of the annual reviews were shown. On January 25 the commission issued an order for the publication of all real estate assessments. The publicity, disclosing in detail and for particular properties how bad the conditions were, aroused public interest. Hundreds of individuals appeared in person at the office of the tax commission to urge action, and consequently that body, on its own motion, ordered a reassessment on May 27, 1928, and that such reassessment, when completed, be substituted for the 1927 quadrennial assessment. Two days later the attorney-general handed down an opinion holding the reassessment order invalid on the technical ground that the board of review had not completed the regular revision. At the request of the commission, a special session of the legislature was called, which on June 18 enacted simplifying and clarifying legislation, under which the commission on July 10 issued its second reassessment order. Four days later petition for an injunction was filed in the circuit court to restrain the local officers from participating in the reassessment; but the injunction was denied. The local officials, however, dallied until October 30 before appointing a director of the reassessment, thereby greatly aggravating the financial crisis into which all the local governments of Cook County were precipitated as a result of the delay of subsequent tax levies.[2]

The reassessment was tentatively completed early in August, 1929.[3] As shown in Table 88, the data of which are limited to Chicago, it has undoubtedly remedied some of the inequalities. It will be seen that, while the assessment of 1927 did not raise the average assessment ratio over what it was in 1926, the last year of the 1923 quadrennium, the reassessment materially reduced the spread, though still leaving many inequalities. There was no serious thought of achieving a 100 per cent assessment ratio, since such a ratio would have placed Cook County "out of line" with the rest of the state. The ratio for Chicago properties

[1] Cf. Table 88, *infra*.

[2] The situation was normally bad owing to the practice of borrowing on tax anticipation warrants, and levying taxes to redeem these warrants.

[3] The taxes were, however, not collected thereon until the summer of 1930, being over two years delayed.

did in fact fall from 35.9 per cent in 1927 to 27.8 per cent in 1928. An equalization ratio of 37 per cent of full value was adopted, partly on

TABLE 88

EFFECTS OF COOK COUNTY REASSESSMENT AS SHOWN BY CHANGES IN THE DISTRIBUTION OF ASSESSMENT RATIOS OF PROPERTY IN CHICAGO*

Percentage of Sales Value	Number of Properties (per Cent)			Value of Properties (per Cent)		
	1926†	1927‡	1928§	1926†	1927‡	1928§
1–5	2.8	0.9	0	4.6	0.9	0
6–10	4.4	2.7	0.2	3.8	2.3	2.0
11–15	7.5	4.4	3.7	7.7	5.6	5.6
16–20	10.0	7.5	12.2	8.9	9.5	11.1
21–25	15.2	11.5	21.8	15.3	12.0	22.6
26–30	16.5	15.6	27.6	14.5	15.2	23.9
31–35	14.0	14.3	18.8	14.6	14.0	19.6
36–40	9.7	12.0	9.7	9.3	10.9	8.4
41–45	6.6	8.7	3.8	5.8	8.0	3.6
46–50	4.1	6.1	1.4	4.5	5.6	2.0
51–55	2.3	4.3	0.43	2.2	4.0	0.34
56–60	1.9	2.7	0.25	1.8	2.2	0.8
61–65	1.2	2.7	....	1.7	2.4	....
66–70	1.0	1.7	0.05	1.6	1.6	0.03
71–75	0.7	1.2	....	0.4	1.6	....
76–80	.6	1.0	0.07	1.0	0.8	0.03
81–85	.5	0.8	....	0.5	1.0	....
86–90	.3	.6	....	.2	0.5	....
91–95	.3	.5	....	.3	.6	....
96–100	.2	.3	....	.7	.5	....
Over 100	0.2	0.5	....	0.7	0.8	....
Total	100.0	100.0	100.0	100.0	100.0	100.0

* Simpson, *Tax Racket and Tax Reform in Chicago*, especially Tables 6, 11, and 20.

† At end of quadrennium 1923–26 of 6,105 properties.

‡ 1927 assessment of 6,107 properties.

§ Reassessment of 4,084 properties.

the ground that such a ratio would produce a valuation equal to that of the 1927 assessment. It did, in fact, produce several hundred million dollars less.

In an earlier chapter[1] it was shown that the reassessment remedied some of the inequalities among different classes of property. As Table 89 shows, there was also an appreciable equalization among the different districts. Thus the "Loop" district had its ratio reduced from 74 per cent to 41.3 per cent, but still remained high, within Chicago at least. Conversely, the ratio of Washington Heights, an outlying district, was raised from 13.9 per cent to 27.6 per cent.

TABLE 89

COMPARISON OF ASSESSMENT RATIOS IN CHICAGO BEFORE AND AFTER REASSESSMENT, EXTREME HIGH AND LOW*

District	Assessment Ratio	
	Assessment of 1927 (per Cent)	Reassessment (per Cent)
Loop†	74.0	41.3
Washington Heights‡	13.9	27.6
Post Office "D"§	27.3	18.1
Average	35.9	27.8

* From Simpson, *Tax Racket and Tax Reform in Chicago*, p. 172.
† Highest ratio both before and after reassessment.
‡ Lowest ratio before reassessment.
§ Lowest ratio after reassessment.

While the direct and immediate results in the form of greater, though far from complete, equality in the assessment ratios in themselves would justify the reassessment, there were in the Cook County, as there must have been in every reassessment, certain indirect and perhaps deferred results which may prove to be more important. These advantages may be summarized from the statements made by Simpson,[2] as follows: First, the reassessment demonstrated the possibility[3]

[1] Chap. xii, Table 77. Thus office and bank buildings achieved a 34.99 per cent ratio as compared with a 56.7 per cent ratio under the 1927 assessment; and industrial properties.

[2] *Tax Racket and Tax Reform in Chicago*, pp. 176–81.

[3] Perhaps Dr. Simpson used good discretion in designating such a phenomenon as a possibility rather than an achievement.

of having a businesslike and nonpolitical assessment in Cook County. Second, it established a fairly definite assessment ratio, and some degree of certainty in place of complete haphazardness. Third, it established standard methods of procedure and yielded a mass of information that will be more serviceable as more of it accumulates. Fourth, it demonstrated the necessity for centralized administration. Fifth, it precipitated a series of special problems of assessment procedures in cases of such property as obsolescent buildings, locally assessed railroad property, and suburban agricultural lands, which the previous practices had concealed. Sixth, and finally, it precipitated the problems of the disparities among counties, between locally assessed and centrally assessed property, and between real estate and personalty.

In most of the dozen other states where power to reassess obtains, the power is so restricted as to be ineffective. West Virginia conferred this power freely in 1920, and it was extensively used the following year with good results.[1] The tax commissions of Kansas and Alabama possess the power but have not made extensive use of it. In Colorado the power is almost negated by the requirement that the reassessment must be made between September 7 and October 1. In Missouri only individual properties may be reassessed. In New York the commission may order reassessment only upon a court order; this provision practically nullifies any power to reassess.

Power to reassess or to order property reassessed, without unreasonable restrictions, even though sparingly used, is an important administrative device. No good reason appears for not permitting the commission to initiate reassessments. The commission should not be unduly restricted as to the time or territory within which the reassessment may be made, nor as to the categories of property subject to reassessment. The person conducting the assessment should, in the opinion of the Illinois commission, be responsible to the commission, and the reassesssment as accepted by the commission from the special assessors should be final, not subject to revision by the local board of review for the current year. The Cook County reassessment, has shown, however, that such a huge task cannot be completed in time to be substituted for the current year's assessment, without causing serious fiscal disarrangement. The newly developed Wisconsin expedient

[1] Cf. *Report for 1921–22*, introductory chapter.

of applying the reassessment principle to the following, not the current, assessment is worth considering. Ordinarily a condition requiring such a drastic remedy as reassessment is not one that has grown up in one year, or even in a few years. It is usually one of cumulative deterioration upon which, in one way or another, the searchlight is suddenly turned. To continue a bad assessment even one year longer has disadvantages, but these may be more than outweighed by the more orderly assessment procedure possible where the reassessment is substituted for the next year's assessment, than where a headlong reassessment must be made in order not to delay beyond tolerance the regular collection of taxes.

CHAPTER XVII

CENTRAL ASSESSMENT

The assessment of certain complex and extensive types of property, such as railroads, early proved to be quite beyond the capacity of the local assessor. Without departing from the principles of property taxation, nearly all of the states have made changes in the methods of taxation which have transferred the assessment of such property from the local assessor to an already existing agency, or have created a new agency for this specific purpose. The incapacity of the local assessor to assess such property results scarcely from any change in him, but from the fact that the problem has changed.

It is not the purpose here to present a historical or theoretical discussion of railroad and public utility taxation, but merely to point out the circumstances that gave rise to central assessments, the agencies selected for this work, the properties so assessed, and to appraise briefly the effectiveness of this device, by which it was hoped to preserve the principles of the general property tax for the centrally assessed property. For a discussion of corporation and other special taxes, applying to railroads, utilities, and other corporations, the reader must look elsewhere. The taxes, for which the central assessment is made, are property taxes, and are usually as completely integrated with the general property tax as circumstances in the respective states will permit. Students of the general property tax, who point out its defects and predict its early demise, appear desirous of coining new names for these property taxes.[1]

[1] Thus, Hsien Ju Huang, *State Taxation of Railways in the United States*, p. 11, says: "To the students of American taxation, there is nothing strange in the so-called *ad valorem* system of taxing railways. It is nothing more than the old general property tax system modified to suit changes in industrial and economic conditions. But, while in principle it is the same as the general property tax, in practice there are many differences between them." Huang then proceeds to discuss the general property tax as the "forerunner of the *ad valorem* system." Next he selects certain states, such as New York, Pennsylvania, Connecticut, Michigan, and Wisconsin

I. NEED FOR CENTRAL ASSESSMENT

The local assessor's jurisdiction is limited to property within his district. It is impossible to value, say, a piece of track except in connection with the rest of the operating property of the company. Taken by itself, any one mile of track is of little value. On the other hand, unless it is a branch or a feeder, the rest of the road could not be operated without it, and in that sense it is very valuable. Such a line cannot be valued except as a part of the entire system; and such value as can be given to it is nothing more than an apportioned share of the value of the entire system. Even centralized state assessment does not entirely meet the problem. For some railroads run through a dozen states or more, and the situation, therefore, demands an assessment by some national agency rather than by at least a dozen different bodies.[1]

To ascertain the value of the property of any railroad system requires highly specialized skill. It cannot be done by comparing, say, the value of right of way with the site value of adjacent agricultural or urban land. The earning power of the railroad is a determining

where noticeable changes have differentiated property taxes on railroads; and, ignoring the property aspects of these taxes, gives them names, as he supposes, according to their kind. But the bases for valuation, such as physical value, gross earnings, net earnings, value of securities, capitalized earnings, etc., are merely indicators of value, not, as such, bases of the tax on railroads. All, or substantially all, American property taxes are ad valorem taxes. It would be well to hasten the disintegration of the still considerable remnant of the general property tax in the typical tax systems of American states into a more diversified system; but there are no indications that mere multiplying of names will do it.

[1] "There is at least as much justification for a centralized assessment of the property of these (interstate) corporations as there is for a central assessment of like property of lines crossing several districts within a given state. In fact, such centralization would seem to be more needed because, under the irresponsible divided system now obtaining, there is a tendency on the part of states to reach out and import value pertaining to property of public service corporations operating interstate. Just how this centralization will come is a matter of speculation. The power of assessment may be lodged in a body raised by Congress, or the central body may be appointed jointly by the state interested under some federal law of control, with proper provision for a division of the value of the property for particular lines of transportation or transmission among the states through which the lines are built" (Samuel T. Howe, "The Central Control of the Valuation of Taxable Subjects," *Annals of the American Academy of Political and Social Science*, LVIII, 119).

factor. The income of a railroad cannot be determined without access to the books of the road; and the determination requires skill in accounting and appraisal not possessed by the local assessor. Another reason for central assessment is the existence, among the assests of corporations, of an element variously called good will, franchise, or corporate excess. This element and, therefore, the difficulty of assessing it as property are especially conspicuous in those service enterprises with relatively little tangible property. It is particularly obvious in the express business. The Adams Express Company[1] in 1895 reported $3,030,328 of real property and $1,159,491 of personal property or a total of $4,189,819. The aggregate market value of the shares of the company, however, amounted to more than $16,000,000, or about four times as much as the tangible property. The difference, or the intangible value of the company, arose not from the physical unity of the property, but from unity of use. A share of this intangible property, proportionate to mileage, was held to be reasonably taxable by a state.

Assessment of this element was even more clearly beyond the capacity of the local assessor than the assessment of the tangible corporate property. One of the most difficult tasks of the central board of assessment is the assessment of corporate intangibles. Occasionally the task is assigned to a separate board. In Texas, no other kind of property is centrally assessed.

Also difficult to determine is the taxable situs of such property. Certain personal property, like rolling stock, which may be in one state one day and in another the next, has no situs, except such as may be assigned. To assess property which happens to be in the district on the tax day would be arbitrary and impractical. Another undesirable method is to assign all movables for taxation at the principal office of the corporation, on the principle that personalty follows the owner. Intangibles, like movable tangibles, attach to the entire system and could reasonably be regarded as having a business situs equally well throughout the system. Logically, any district having jurisdiction is entitled to tax a part of the intangible value normally employed on the system.

The management of a railroad company is that of a single business enterprise. It is desirable that there shall be similar unity of tax ad-

[1] *Adams Express Company* v. *Ohio*, 165 U.S. 194, 1896.

ministration or at least as much unity as our peculiar form of government will permit. The railroad company, like other taxpayers, will keep its tax payments as low as it can. It is possible and expedient for the corporation to employ specialized counsel and accountants, often called special tax commissioners. The advantages of the tax department of a railroad company over, say, five hundred assessors, is easily seen. The personnel of the state, under the old decentralized assessment of the railroad property, was numerous and divided, untrained and frequently changing in office, and lacked the effective motivation of the railroad officers.

II. THE AGENCIES FOR CENTRAL ASSESSMENT

To some extent local assessors retain their function of assessment of public service property, being usually limited, however, to nonoperative property, not necessarily used in the principal business of the enterprise. In some states, the local assessor still values such property as shops, buildings, or even side tracks, which may be said to have a local business situs. In a few states the central assessment either extends to only a part of the operative property or does not exist at all.

Thus, in Texas the fixed tangible property, such as buildings, right of way, and tracks, is assessed by the local county assessors, as required by the constitution.[1] The rolling stock may be assessed in gross in the county where the principal office of the corporation is located, but the value so determined must be distributed among the counties through which the track extends, according to the mileage in each county. Only the intangible property is assessed by an ex officio state tax board, under the following formula: The total value of all property is first obtained by reference to the market value of the stocks and bonds. From this total value is deducted the assessed value of the tangible property, and the balance is the value of the intangible property, which must be distributed among the counties in the same way as the rolling stock. A similar arrangement obtains in Tennessee. It seems illogical not to have all nonlocalized property assessed by the same board. In Connecticut and Maryland the local officials assess only a part of public utility tangibles, the intangible values being partly reached through a gross earnings tax. In Maryland, the county as-

[1] Art. viii, sec. 8.

sessors also assess the intangibles of railroads. In Massachusetts and Rhode Island, township officials assess, in general, all tangibles, while a corporate excess tax presumably reaches the intangible value. Local assessors also assess some or all tangibles in Delaware, New York, Pennsylvania, the intangible value being reached through special franchise or property taxes, centrally administered. In New York, however, special franchises of corporations are valued by the state tax commission and taxed as property. Properly enough, it is rare that corporate excess or franchise value is locally taxed as property.[1]

In Florida the central assessment is made by the state comptroller; and in Georgia, by the comptroller general, an elective official. In eight states,[2] it is made by ex officio boards, whose membership usually includes such officials as the governor, secretary of state, auditor, treasurer, attorney-general, state inspector and examiner, president of the board of agriculture, commissioner of agriculture, and superintendent of free schools. Such an arrangement is usually unsatisfactory. The officials are elected on a political basis. Few, if any, of them have any training or skill for the intricate task of the assessment, and their regular duties leave them little opportunity for the assessment, and less for obtaining experience to prepare them for subsequent assessments. The assessments in the past rapidly declined to, if they ever rose above, a perfunctory acceptance of the data reported by the corporations affected, or an arbitrary and unscientific adjustment dictated by political expediency or popular clamor.

[1] The practical reason for this is not that it would not be desirable to tax such values as property, but that the local assessors cannot find it. The *Report of the State Assessors of the State of New York, 1873,* p. 8, gives the reason: "We have not been able to find that the capital, rolling stock, or other personal property of any railroad company except city railroads (and few of them), is assessed. One, and perhaps the principal, reason for this is the great difficulty in ascertaining the location of the principal office of some companies.

"In several different cities, we inquired in relation to the assessment of the stock of certain railroads, or other incorporated companies, supposing it assessable there, but were informed by the assessors that the company in question claimed to have its principal office in another city. On examination of the tax rolls in the city referred to, and finding no assessment, we were informed that the company had its principal office where we first supposed it to be."

[2] Idaho, Nebraska, North Dakota, Oklahoma, Tennessee, Virginia, West Virginia, and Wyoming.

Little can be said for the practice of assigning the state assessment, and the subsequent equalization as well, to a board consisting of ex officio members. "In any case, the experience with ex officio members yields a perfectly clear conclusion—no commission should be hampered with members so chosen."[1] Equally unsatisfactory is the practice of assigning the assessment to some already existing officer or board to be performed as a spare-time job. But if some members must be ex officio, then there certainly is a gain in having the tax commissioner, presumably an expert in tax matters, give full time to the task. This he does in Nebraska and North Dakota, where the tax commissioner is a member of the board of equalization which makes the central assessment.

The proper agency for the central assessment is the permanent tax commission or commissioner. In that agency alone can one expect to find the required skill and experience, the indispensable basic information, and the desirable continuity of service. In Colorado and Missouri, states afflicted with constitutional ex officio state boards of equalization, the centralized assessment has been assigned to the statutory tax commissions.

III. PROPERTY CENTRALLY ASSESSED

To effect a change to central assessment, the shortcomings of local assessment must be serious enough to overcome both the hostile presumption against any state agency and the natural inertia supporting the local assessor. Only property, the local assessment of which is practically impossible, is centrally assessed. This property is chiefly such as overlaps the boundaries of tax districts; railroad property is the principal example. In the main, only the operating property of the railroad company is centrally assessed, nonoperating property being still most commonly assessed locally.

In about one-half of the states, the line of demarcation is drawn on the basis of the relation of the property to the enterprise. Nonoperating property, that is not necessarily employed in the transportation function is assessed locally, while operating property is centrally assessed. Nonoperating property may consist of farm land, mines, shops, office buildings, bonds and stocks, and other similar items.

[1] Lutz, *The State Tax Commission*, p. 627.

Eight states[1] require local assessment of some of the operating, as well as all of the nonoperating, property. Stations, warehouses, shops, office buildings, many forms of equipment, and materials are for that purpose held to be localized, and sometimes even side tracks and spurs. There is, however, much diversity of practice. For example, Illinois,[2] outside of the special arrangement made with the Illinois Central Railroad,[3] assigns to the state tax commission the assessment of "railroad track," which embraces the right of way, including all tracks, superstructures, buildings, and improvements located thereon; also rolling stock and capital stock, including franchises. Centrally assessed property is called "distributable," as contrasted with the "nondistributable," which is locally assessed. Alabama and West Virginia go still farther in employing the local assessor for such assessments. In Alabama, the local assessor values such property as stations, buildings, grounds, water tanks, in fact everything except the tracks, the right of way, and all strictly right-of-way superstructures. In West Virginia "localized" property includes terminals, depots, shops, and other buildings, grounds, tools, machinery, etc. In Georgia "located" property includes side track, meaning all track "paralleling the main track and connected thereto at either end"; also main track including the right-of-way, rails, and all right-of-way structures; and real estate, which includes buildings, stations, shops, and grounds. The "distributable" property thus comprehends only rolling stock, tools, moneys, etc., as well as franchises.

The central assessment of transportation agencies other than steam railroads is of later origin because the need has been less urgent. In a few states, electric interurban, as well as intercounty, lines are generally assessed by the state board. States usually extend the requirement of central assessment to street railways. Such properties should be taxable in the cities in which they operate because they are largely of a local

[1] Alabama, Georgia, Illinois, Indiana, Missouri, North Carolina, Tennessee, and West Virginia.

[2] Indiana, Missouri, North Carolina, and Tennessee resemble Illinois closely in this respect.

[3] For the payment, in lieu of a property tax, of a gross receipts tax of 7 per cent on the earnings of the lines authorized to be built under the original charter (*Revised Statutes*, secs. 364, 365).

character. Hence, some states that collect, for state purposes, a tax on steam railroads, assign the tax on street railways to the cities and counties concerned. The Minnesota tax commission assesses inter-county street railroads but none of the revenue goes to the state. Wisconsin has a similar arrangement, except that of the revenue collected 15 per cent goes to the state and the remainder is divided among the cities, towns, school districts, and counties in proportion to mileage. Where the street railroad lies within one tax district, the problem is relatively simple. Only the aggregate valuation need be obtained, and obviously the need for central assessment is greatly lessened. But where the system covers more than one city or more than one county, or more than one state, the question of apportionment arises.

The authority of central assessment often extends to car companies. They may lease or operate freight, refrigerator, parlor, or sleeping cars. Except for central assessment, much of this property would not be assessed at all, for the local assessor is not in position to apprehend cars in transit from place to place. It is obviously necessary that a tax situs be established other than at the town of the principal business office, for it would be very unfair to give to any one county and city the total tax yield from the property of a car company, for no other than the accidental reason that the office of such a company happened to be located there.

The tax problem of express companies is more difficult than that of car companies. They have but little property which the local assessor can apprehend. On account of the relatively small amount of capital employed, tangible property is not a good property-tax base for such companies. What little tangible localized property they have, such as office equipment and delivery wagons, is usually assessed like other local property. In a growing number of states, the state board is assigned the assessment of all nonlocalized property, including the intangible property of express companies. The property is usually apportioned among the counties for taxation at the local rate, according to mileage or gross earnings.

A few miscellaneous transportation agencies, namely, pipe lines, steamship companies, ferry companies, bridge, wharf, and canal companies, and toll roads, are sometimes centrally assessed. The principles of assessment do not differ greatly, and the aggregate of the taxable

value of all of these is small, except, perhaps, on pipe lines in a few states. In recent years, since the development of hard-surface highways, motor-vehicle transportation has appeared and will require similar treatment. Truck and bus lines operate on highways paid for out of public funds, a fact in itself enough to give them a special position with respect to taxation.

The property of telephone and telegraph companies, as a rule, is centrally assessed if it is taxable on a property basis. Central assessment of telegraph but not of telephone property is required in Louisiana, Washington, and Wisconsin, the last-named state imposing a license tax on telephone companies in lieu of all state and local property taxes. With the foregoing and a few other exceptions, telegraph and telephone property is centrally assessed in all states where railroad property is thus assessed. In Minnesota, where the gross earnings tax is used for railroad and similar properties, telegraph property is centrally assessed and taxed for state purposes at a rate not to exceed the average rate of all local and general taxes on property. The central assessment does not always apply to all telephone properties. Thus, in Kansas it does not apply to properties located entirely within one county.

Public utility properties furnishing gas, electricity, or water do not extend across county or other boundaries as frequently as do railroad properties. They are, therefore, not regarded as incapable of local assessment. There is, to be sure, a large and increasing degree of concentration of ownership and control. But unity of ownership and control is unfortunately not accepted by the courts and by public opinion as giving rise to necessity for assessment as a unit quite as much as is the physical continuity of the property. Where, however, as in many electric or natural gas systems, such interstate or intercounty continuity exists, the case for central assessment may well be as strong as for railroad property, and is quite generally recognized.[1] Moreover, such property is of a highly specialized character and is difficult even for experts to appraise accurately.

There is a considerable variety of other property which at times is centrally assessed. Thus, in Kansas, other properties than those men-

[1] Cf. *Report of the Minnesota Tax Commission, 1924*, of the work of its engineering department in appraising light and power companies, chap. ix.

tioned, if situated in more than one county, are assessable by the tax commission. In Illinois, the corporate excess of other corporations is assessed by the tax commission and the valuations are apportioned for taxation at local rates. Mines and mine improvements are often assessed by a state board, chiefly because of the need for expert appraisal. Nevada, in 1927, joined the list of states where the tax commission assesses mining property. Various other types of property, such as bridges, ferries, irrigation works, heating plants, motor vehicles, warehouses, must for various reasons be centrally assessed or appraised. The valuation of livestock-grazing in more than one county, in herds that cannot be counted, must be arbitrarily apportioned. In Maine, "wild lands" not attached to any town must be assessed by the state board of assessors.

The category of centrally assessable property will doubtless continue to increase in amount and variety. From time to time each state, according to its industrial development, will find it necessary to assign one class of property after another for central assessment. Thus, in 1924, the tax commission of South Dakota recommended the central assessment of power companies.[1] Bus lines and truck lines are passing under central control both for assessment and regulatory purposes. While the categories of public utility property and centrally assessed property are not identical, they are nevertheless to a large extent coextensive. In general, the same forces that lead to regulation of rates and services also lead to central assessment.

IV. THE ASSESSMENT PROCEDURE AND BASES

Everywhere the railroad companies and owners of other centrally assessed property furnish to the assessing bodies reports of all their property in the state, in such form and in such detail as the state boards require. The boards may investigate on their own initiative and may demand access to the books of the companies. The extent to which such supplementary information can be obtained and used depends largely upon the character of the board and the support it is given. The ex officio boards, considering this task as incidental, can do little more than accept the reports rendered by the railroad companies. The administrative board that is given insufficient expert accounting and

[1] *Report, 1923–24*, pp. 4–7.

clerical help is also hampered. Only in such states as Wisconsin and Michigan, where the commissions have been reasonably well equipped, has tolerably effective assessment been achieved.

A. UNIT VALUATION

Broadly speaking, the entire property, or, at any rate, that part of it located in the state, is assessed as a unit. In a few states, the branches must be valued separately from the main line. In others, each main track or division must be valued separately. The classification is sometimes carried further, under a requirement that each class of track must be appraised separately. The several classes of property, such as track, rolling stock, and franchise, must each be given a separate valuation.

The analysis here required of the central body is the counterpart of the analysis required more or less extensively of the local assessor of such property as he still appraises. More accurate assessment is sought in both instances. But the classification of the railroad property under the central assessment has usually at least one other object, namely, to distribute the aggregate valuation among the several counties and towns as nearly as possible according to the value assignable to each. The value per mile of the main line is generally considered to be greater than that of branch lines. The value of each class is usually separately distributed among the counties and towns.

No great opposition on the part of the courts to the proper use of the unit rule of valuation appears to have been encountered. Within its proper scope, this rule is not repugnant to the federal constitution. The rule appeared first in 1875 in Illinois[1] and in Missouri[2] in the valuation of intrastate railroad property, and was approved by the Supreme Court as reasonable and within the powers of the states.[3] It was extended to cover interstate railroad property in the Kentucky Railroad Tax case[4] and in the Indiana Railroad Tax cases,[5] where it was held that the valuation of the intrastate property of an interstate railroad might be determined upon the basis of information concerning the total mileage of the road and the market value of the securities of the cor-

[1] *Porter* v. *Railroad Co.*, 76 Ill. 561.

[2] *State ex rel.* v. *Severance*, 55 Mo. 378.

[3] 92 U.S. 575.

[4] 115 U.S. 321.

[5] 154 U.S. 421, and 154 U.S. 439.

poration. It was further extended to cover the property of interstate telegraph lines,[1] and, finally, also that of express companies.[2] The property outside the jurisdiction of the state is allowed to be considered only as evidence of the value of that lying within the state. The rule is not intended to extend the jurisdiction of any state to tax property it could not otherwise tax, that is, "to import property for taxation."

There are, however, limitations upon the unit rule of valuation. Evidence is admissible to show special circumstances that would make the rule inequitable in its operation, such as concentration of traffic or property in certain places, within or without the jurisdiction of the state. The complaining taxpayer must show that such special conditions exist. Moreover, the federal judicial sanction means merely that the federal constitution does not stand in the way. The state laws may require, permit, or forbid the use of the rule. If the state law does not forbid the use of the unit rule, or require other rules, the validity of the rule depends upon whether or not it results in importing value for taxation. In a recent Kentucky case[3] the United States Supreme Court

[1] *W. U. Telegraph Co.* v. *Massachusetts*, 125 U.S. 530; *Massachusetts* v. *W. U. Telegraph Co.*, 141 U.S. 40; and *W. U. Telegraph Co.* v. *Taggart*, 163 U.S. 1.

[2] *Adams Express Co.* v. *Ohio*, 165 U.S. 194.

[3] The Southern Railway, a Virginia corporation, owned no tangible property in Kentucky, but controlled through stock holdings the Southern Railway of Kentucky. The latter railroad operated and owned 127.63 miles of line in Kentucky, which was connected, by means of other lines also controlled by the Southern Railway, and operated as a part of the Southern system. The Southern Railway of Kentucky had been assessed and had paid taxes on its tangible property, but its intangible property was assessed as omitted property for 1917 and 1918 to the Southern Railway of Virginia, a nonresident. No objection was taken to the fact that it was a tax on intangibles owned by a nonresident, but objection was taken to the method of computing the tax. The Kentucky tax commission had capitalized the net operating revenues of the entire system, 9,500 miles outside and 127.63 miles within Kentucky, and assigned a proportionate part of the capitalized value thereof to the mileage in Kentucky. This was held improper by the court. For while the net operating revenues for the entire system were $3,642 per mile in 1917 and $3,623 in 1918, the corresponding amounts for the Kentucky corporation were $878 per mile for 1917, a loss of $4,741 per mile in 1918, and an average annual loss per mile of $1,230 during the five-year period 1914–18. The average value per mile was obviously less for Kentucky than for the rest of the system. The commission's use of the unit rule had resulted in taxing a property value in Kentucky, which was not there (*Southern Railway* v. *Kentucky*, 274 U.S. 76).

held that the application of the unit rule did result in such importation and was consequently inadmissible in the manner in which it had been used by the state tax commission. On the other hand, in a Minnesota case[1] and in a California case,[2] involving a property tax measured by gross earnings, the evidence did not show that the use of the unit rule had resulted in the importation of value for taxation. The rule must evidently be judged by the reasonableness of its results.

The rule is not applicable to all types of enterprises. Railroad companies present a physical continuity and unity of the total plant, which would, in the absence of special circumstances, warrant assessment as a unit. This is also true of telegraph companies, but with express companies there is only a unit of use. Yet the unity of use was held, though by a five-to-four decision, to warrant the classification of the express companies with the railroad and telegraph companies for unit-rule valuation.[3] But mere unity of ownership of property, employed in the same industry, even when combined by a degree of unity of management, is held not to warrant valuation of the aggregate property under the unit rule. Thus, in the case of *Utah-Idaho Sugar Co.* v. *Salt Lake County*,[4] where the plaintiff owned numerous plants in more than one state, it was held that the doctrine of the unit rule did not apply to manufacturing corporations. The reasons for the distinction between the express company and other taxpayers to whose property the unit rule of valuation is not permissible is indicated by the following quotation from the express case.[5]

> The same party may own a manufacturing establishment in one state and a store in another and may make profit by operating the two, but the work of each is separate. The value of the factory in itself is not conditioned on that of the store or vice versa, nor is the value of the goods manufactured and sold affected thereby. The connection between them is merely accidental and growing out of the unity of ownership. But the property of an express company distributed through different states is an essential condition of the business united in a single specific use. It constitutes but a single plant, made so by the very character and necessities of the business.

[1] *Great Northern Railway* v. *Minnesota*, 278 U.S. 503.

[2] *Pullman Co.* v. *Richardson*, 261 U.S. 330. Cf. numerous cases there cited.

[3] 165 U.S. 194.

[4] 210 Pac. 106. This case does not involve centrally assessed property.

[5] 165 U.S. 222.

Economically considered, this distinction is not well drawn. There is much to favor the dissenting opinion in the express case, where it was asked why, if the unit rule was to apply to express companies, it could not, with equal reason, be applied to a corporation or a partnership engaged in the dry goods business, or in any other business with branches in different states, on the theory that there was a unity of earnings between the agencies in all the establishments. While the dissenting justices would disallow the assessment of express companies on a unit basis, as well as that of manufacturing and mercantile corporations, there would be good reason for permitting it to operate wherever there is unity of ownership and of management. For such unity adds value to the enterprise that cannot readily be measured by separate assessment of the individual plants or parcels. It may be true that, if a person owns a retail shoe store in one state and a cafeteria in another, the value of each of these properties is independent of the other. But it was not true in the Utah-Idaho Sugar Company case that the value of one plant was not enhanced by the joint ownership with others, in Utah or elsewhere, so long as they were of the same kind and were jointly managed. Much was said in that case of the corporate franchise, which, as it happened, the state of Utah did not tax. But that value given to property by reason of joint ownership and complementary use is not peculiar to corporations. Such value can, of course, be taxed, in case of corporate ownership at least, where the corporation is domiciled in the taxing state, through the corporate excess tax or appropriate franchise taxes. But the value cannot, apparently, be determined legally by the use of the unit rule. And if it is to be determined at all, it is necessary that a competent tax commission make the assessment.

B. VALUATION BASES

Perhaps the most important reason that railroad and certain other property is centrally assessed is that it is practically never sold in any market. The assessor is thus left without the most reliable check, which he applies to other property wherever possible. Moreover, such property is of such a specialized nature that it cannot be valued by comparison with similar property used elsewhere. Some constructive value must, therefore, be found to serve as the tax base. There are at least three quite distinct methods of obtaining the unit value; they are,

however, generally used in combination with each other. Each of these methods will now be briefly considered. The best opinion seems to be that no one principle or method will give satisfactory results. The laws seldom prescribe detailed rules and procedure for valuation, though they may prescribe that one or more of the three methods must be used. Doubtless, experience has taught that no set of rules and measures of value can be legally prescribed that will give reasonable results in all cases and will withstand attack in the courts. The assessing bodies likewise seldom show the precise methods used in arriving at the taxable value, though they may state the factors that influenced their judgment. The reticence on the part of the tax commissions again is doubtless due, in large measure, to the necessity of avoiding the mass of litigation that would follow if the precise methods of arriving at the valuations were always given in detail.

The method of valuation to which the local assessors turned, and to which most laymen would first turn, is the so-called physical valuation. In a few states this method has been emphasized with fair success, although never used exclusively. It has been most successfully applied in Michigan. There, under the direction of an expert civil engineer, a valuation was made of all railroad property in the state. This valuation, with subsequent adjustments, including the combination with capitalized earnings, is still the principal basis for the property tax on railroads in that state.[1] A usable valuation was possible, not only because the valuation board was given a free hand, but also because it was adequately supplied with funds. Wisconsin has made use of the principle of physical valuation with equal success.

It is possible only to indicate the general principles the engineer must employ in his appraisal. The original cost of the railroad property is no satisfactory criterion of its present value. Construction costs have changed; structures have become useless, worn out, or obsolete; and some parts of the property, such as the right-of-way, may have cost little or nothing originally. There were all degrees of economy or extravagance in the original construction. It would be unfair to saddle

[1] Cf. e.g., M. E. Cooley, "Michigan Railroad Appraisal," *Publication of Michigan Political Science Association*, IV (1901), 285–92. Also Huang, *op. cit.*, pp. 26–32, and sources there cited. Cf. also *Biennial Reports of the Board of State Tax Commissioner* and of the *Board of State Assessors of Michigan*.

the present property with a heavy tax burden simply because the builders were extravagant and wasteful. Finally, the original costs, as shown by the fruitless attempts of the Interstate Commerce Commission, are seldom obtainable.

The basis mainly used in Michigan and Wisconsin is the replacement-new cost, with allowance for actual depreciation—what it would cost to replace the property less its depreciation. This replacement cost is not a true index of the market value, which, in so far as that kind of property can be said to have any market value, is determined by its present and anticipated earning power. The earning power depends upon many conditions independent of the cost of construction of the line, such as the growth of population, industries and markets, and the public regulation of rates and service. It is impossible to use the cost of replacement as the sole measure of value. Moreover, some parts of the property, such as the right-of-way, can have no determinable replacement value. As one of the elements in the appraisal the physical valuation is useful; it is generally used only as one element.

To supplement the physical valuation, resort has been had to the earnings of the road. Gross earnings or gross receipts, taken by themselves, do not measure the value. It is the net earnings, current and anticipated, that give rise to market value. Net earnings, or the difference between gross receipts and operating expenses, is usable as one basis of valuation. It must be the net earnings before any deduction is made for the payment of interest on bonds. The valuation of railroad property for taxation purposes is usually determined from net earnings by capitalizing the latter at some specified percentage. In Georgia, 6 per cent was specified, and that figure is common, but lower or higher percentages are found in other states. Since the net earnings vary greatly from one year to another, wide fluctuations in the resulting valuation are avoided, in part at least, by taking as the basis for the tax of a given year, not the actual net earnings for the current year, but an average of the net earnings for a period of years. Oregon specifies an average of five years. Thus defined and modified, net earnings are not commonly used as the sole criterion of value. Even as a supplementary measure, this basis has several drawbacks.

Net earnings are not easily determined and checked except by expert accountants, and such aid is only grudgingly granted to the com-

missions; earnings for purposes of valuation must not include the earnings from nonoperative property locally taxed; some more or less arbitrary method must be adopted to segregate the net earnings of the operating property; there is some difficulty involved in determining, in the case of an interstate railroad, the share of total net earnings for the whole system belonging to that part of the property situated within the state. Many railroads have no net earnings; they have not only paid no dividends on their shares but have also not been in position to meet the entire interest payments on their bonds. An enterprise that paid no dividends and offered no prospect of doing so would have only a negligible market value. Under the ad valorem tax principle, on a net earning basis, it would pay little or no taxes. As long as it operates as an enterprise, it should pay something to the state; for the state still must give service to that enterprise as well as to others that are paying. And some of the property could be turned to other uses at some value, and thus yield earnings and taxes as well. Current net earnings, on the other hand, do not show anticipated future earnings or deficits. In other words, a valuation based upon net earnings makes no allowance for the anticipated increment or possible decrement in the earning power of the road. The valuation of a farm, or other ordinary property with which the assessor is familiar, will include an allowance for anticipated changes, which are capitalized and made a part of the current valuation. There may be doubt as to whether the future increase ought to be taxed that way; but such taxation is contemplated under the ad valorem principle; and presumably the rule ought to operate equally for all types of property.

A third method of valuing a railroad as a unit is to take the combined market value of the bonds and stocks as the aggregate value of all the property of the railroad company. The reason for taking both classes of securities is obvious. The property of any corporate enterprise is represented by both the shares and the bonds. The bondholders have by far the most important equities in many roads. This method of valuing railroad property has several advantages. The market value of the stocks and bonds represents the market value of the railroads in the only sense in which property of that kind can be said to have any market value; the market value thus obtained includes the capitalization of the expected earning power of the property; the buyers and

sellers have the best possible reason for making accurate estimates of the value of the property; it is extremely improbable that the assessing board can excel the opinion of the holders of or the dealers in the securities.

This method has also certain disadvantages, important enough to preclude its use as the sole basis of valuation. The securities of many railroad companies are not active in the market, some never being sold, others being sold but rarely; frequently the price is not divulged to the public. The prices paid and quoted, especially for the shares, are not always reliable as a measure of value. They are often the result of stock market manipulation. The securities, even more inevitably than the earnings, represent the enterprise as a whole, and their use necessitates segregation for taxation of that part of the value not locally assessed and taxed.

V. APPORTIONMENT

Once the value taxable in each state is determined, two courses are available. The state can either tax the property for its own use or apportion it on some basis for taxation by the local taxing districts. If the state does not choose to tax the property itself, it is not only necessary to determine the share of the total valuation that shall be taxable in each of the states traversed by a railroad, but also, within the state, what part of that property value shall be taxable in each of the counties and townships traversed by the road. While there is no valid objection to having the railroad property centrally assessed, there are, in nearly all the states, effective objections to having it centrally taxed.

Nevertheless several states retain the taxes on some of the centrally assessed properties. The best developed system of that sort is found in Wisconsin. It merits consideration, because it possesses possibilities for the adjustment of state and local revenues upon a basis related to the respective fiscal needs and to the nature of the different types of centrally assessed property. Upon all centrally assessed property, taxes are levied by the state at the average state rate—the quotient of all property taxes divided by the total valuation. The state retains all of the taxes upon sleeping-car companies, freight line and equipment companies, express companies, and telegraph companies. It also retains

all of the tax on operating steam railway companies, except that the tax on terminal properties goes to the respective cities, villages, and towns. Of the tax on street railways and heat and power companies operated in connection therewith, the state retains 15 per cent, while 20 per cent goes to the counties, and 65 per cent to the cities, villages, and towns, except that the school districts occasionally share therein. The same apportionment is used for taxes on water, light, heat, and power companies, and for other enterprises of minor importance. Upon telephone companies there is a tax measured by gross receipts at graduated rates from 2.5 per cent to 5 per cent, with a minimum of five cents per instrument. Of this tax the state takes 100 per cent of the toll-line and 15 per cent of the exchange receipts, the balance of the latter going to the cities, villages and towns. The taxes on the telephone companies particularly illustrate the effort to divide the revenue according to the nature of the activities in which the property is used.

Michigan also applies the average state rate to all centrally assessed property, and divides the entire revenue among the primary schools of the state on the basis of school population. The Michigan system is not nearly as flexible as that of Wisconsin. Minnesota, in addition to retaining for state purposes the gross receipts taxes, also retains the property tax on telegraph companies, which are not subject to the gross receipts tax. In the states where a corporate excess tax is levied upon the intangible (franchise) property value of domestic corporations, there is no division of the revenue with the local units. In Kansas and Illinois this tax is levied at the average state rate. There are other instances in which the state retains certain property taxes in full.

The part of the total value of any railroad system that is taxable within any one state is, within the limits of the federal constitution, determined by that state itself. The state must base its claim for taxes from a railroad on a reasonable principle. It must also adopt a reasonable principle for the apportionment of the taxes from a railroad among the numerous units which the road traverses. The mileage of the main track has been accepted as the most common apportionment basis. Most states provide that the part of the valuation taxable in each local unit shall be such a proportion of the total valuation as the mileage of main track in the locality is of the total mileage in the state. This basis of apportionment, which has been repeatedly sanctioned by the

courts,[1] favors the more thinly populated states and regions at the expense of those more densely populated. Only a few states, however, make use of any other basis.

New Hampshire collects the entire tax on railroad property and distributes the proceeds as follows: one-fourth among the towns in proportion to the property of the road there located; and the remaining three-fourths among the towns according to the number of shares owned in the respective towns after the state has retained the amounts that would go outside of the state on account of shares held there. If shares are owned in a town but not listed there for taxation, the town presumably loses a proportionate part of the apportioned revenue. This provides an incentive to the assessor; for the more shares that are returned for taxation, the greater will be the town's share of the apportionment.

A few states assign certain railroad property directly for local assessment and taxation. This applies especially to some of the terminals, tracks, and other property in cities. Places where this type of property is concentrated retain the right to tax it for their own use, instead of having the value distributed throughout the state on a mileage basis. More commonly the state apportions the entire centrally assessed property among the local divisions in proportion to some factor, usually the mileage in each division. The property apportioned is certified to the county official, and is usually taxed at the local rate in the same way as locally assessed property.

VI. EFFECTIVENESS OF CENTRAL ASSESSMENT

At least two tests may be employed to answer the question whether the central assessment has been effective. Both are comparative. We may compare the assessments of the state agencies with those of the local agencies which they superseded. Measured by that test, central assessment can be given unqualified approval. In New York, where

[1] Obviously, if valuation of the property as a unit is sanctioned by the courts, they must necessarily sanction some rule of apportionment. In the State Railroad cases of 1875 the court said: "It may well be doubted whether any better mode of determining the value of that part of the tract within any one county has been devised than to ascertain the value of the whole road and apportion the value within the county by its relative length to the whole" (92 U.S. 608).

there is of all places perhaps the greatest need for central assessment of railroad property, the local assessment was reported by the Special Joint Committee on Taxation and Retrenchment to be thoroughly unsatisfactory:

The local assessor is not in a position to know the value of the entire railroad system, and to assign to his district the proportionate values involved. In one case a local assessor is reported as neglecting a tunnel entirely because as he said: "I never could see how a hole in the ground was worth anything." An examination of the methods of assessing railroad property in other states shows the same difficulties have been encountered in every state. Piecemeal assessment by local assessors is an absolute failure.[1]

Evidence supporting the conclusion of the New York commission is strikingly clear if we compare the results that followed the shift from the local to some central state agency in all the states where such a shift has been made. Lutz[2] has presented the results of these shifts. Thus in Illinois, when the state board of equalization superseded the local assessors, the assessment of steam railroad property was raised from $25,568,489 in 1872 to $133,520,633 in 1873.[3] This gain was not maintained, however, and the ex officio board proved itself not much more capable than the local assessors. In Indiana, when the state board of tax commissioners supplanted the ex officio state board of equalization, the assessment rose from $66,200,000 in 1890 to $161,000,000 in 1892[4] and has been well maintained since. In West Virginia, likewise, when the tax commissioner took over the assessment from the ex officio board of public works, the valuation rose from $28,800,000 in 1904 to $166,400,000 in 1906;[5] this has been similarly maintained since. In Ohio, in 1862, the county auditors of counties traversed by any one railroad system of the state were constituted the assessment board for that system; this arrangement lasted until 1910, when the tax commission assumed charge of the assessments. Some of the railroads appear to have made the occasion for the assessment one of junketing and celebration at its expense for the assessing auditors. To what extent the assessment was influenced by such hospitality cannot be stated.

[1] *Report, 1921*, Legislative Document No. 57, pp. 48, 49.

[2] Lutz, *The State Tax Commission.*

[3] *Ibid.*, p. 73.

[4] *Ibid.*, p. 168.

[5] *Ibid.*, p. 336.

But, although the records are not clear as to the railroad assessments for the years prior to 1910, the valuation was increased by more than 100 per cent.[1] The ex officio state board of equalization had fallen into the habit of accepting the assessments as made by the county auditors.[2] In Wisconsin, where the railroads had been subject to a gross receipts tax prior to 1903, and, on the average, had been better taxed than elsewhere, the taxes on steam railroads rose from $1,499,881.58 in 1903 to $2,700,237.56 and have been steadily increasing since then, as have taxes on other property.[3] In most of the states, the data showing the assessments of railroad property by the local assessors are not always readily available or easy of exact interpretation; but the evidence indicates that the conditions shown for the few selected states above were general if not universal. Clearly, in comparison with the work of local assessors, the work of the central assessment agencies has been uniformly superior.

For the second and severer test, as to whether centrally assessed property is taxed on a parity of assessment ratios with the locally assessed property, the evidence is not so clear, and is more difficult to obtain. It is not difficult to show that, on the whole, railroad property has been assessed at a lower ratio than the value which the companies have claimed and have been assigned for rate-making purposes. The interests of the railroads dictate a low valuation for taxation purposes and a high valuation for rate-making purposes.[4] In view of the prevailing underassessment of other property, and for other reasons,[5] it is not to be expected that the assessed value of the railroads should equal their valuation for rate-making purposes.

Whether the assessment ratio for centrally assessed property, in general, is on a parity with other property, is made more uncertain by the reticence of the central assessing bodies in disclosing the data on the basis of which the factors employed are computed, the weight given

[1] Bogart, *Financial History of Ohio*, pp. 317–29.

[2] *Ibid.*, p. 255.

[3] R. V. Phelan, *The Financial History of Wisconsin*, pp. 373–413.

[4] Cf. J. C. Bonbright, "May the Same Property Have Different Values for Different Purposes?" *Proceedings*, XX (1927), 279–89.

[5] Cf. G. G. Tunnel, "Value for Taxation and Rate-making," *Journal of Political Economy*, XXXV (1927), 1–38; also same author, *Proceedings*, XX (1927), 263–77.

to each factor, and the method by which the appraisals are made. The value of a regulated industry, and most centrally assessed property is owned by public utility corporations subject to rate regulation, is extremely difficult to define, even for taxation purposes. It is to be borne in mind also that such property is in a peculiar position in that the corporate owners thereof must furnish information for valuation purposes, such as few other enterprises, excluding commercial banks, must furnish. Again, centrally assessed property can perhaps not participate ratably in certain localities in the prevailing tax delinquency. On the other hand, it must be remembered that the railroads have been the most successful enterprises, again barring commercial banks during the past decade, in conducting successful litigation for tax relief.[1] Whether the fact that the railroads have been able to prove excessive assessment ratios for their own property rather frequently, in comparison with the assessment ratio of other property, and thus obtain tax relief under the uniformity rule, is due to the fact that they have secured elaborate evidence in the form of sales records and in other forms, or is due to the fact that they really had good cases—were really overassessed—cannot be determined with assurance.

There are not wanting some who, while not always alleging overassessment for centrally assessed property, profess to see in the prevailing assessment procedure, if not actual, at least potential discrimination against such property. It will be remembered that the general procedure is for the administrative tax commission to assess railroad and certain other property, and afterward to equalize this property with the locally assessed and locally equalized property. The commission in such case is both administrator and judge of its own work. The Joint Legislative Revenue Committee of Illinois of 1929 made the following observation and recommendation respecting the procedure in Illinois; this applies equally well to several other states:[2]

There is no provision in the law which contemplates an independent, impartial or semi-impartial hearing of complaints upon assessments made by the commission. The commission acts in the capacity of prosecutor and judge. The assessment organization established by law in the various coun-

[1] Cf. *Mobile and Ohio Railroad* v. *Schnipper et al.*, 31 Fed. (2d) 587, and cases there cited.

[2] *Report, 1929*, pp. 89–90.

ties, and particularly Cook county, goes to one extreme in providing a reviewing agency completely independent of the assessing agency. The State Tax Commission, as now constituted, represents the other extreme.

The committee would pattern the Illinois procedure upon that of the federal income tax—the Commissioner of Internal Revenue being the administrative officer, and the board of tax appeal the quasi-judicial body to give hearings to aggrieved taxpayers. It would have the Illinois commission divested of all its administrative duties and constituted a quasi-judicial body solely to hear and settle disputes. It would have a single administrative tax commissioner perform the assessment of railroad and other property requiring central assessment. Such an arrangement would resemble the present arrangement in North Dakota, Nebraska, North Carolina, and, to a slighter degree, in California. It is doubtful if such an arrangement is preferable to the present Illinois organization, which resembles that of Minnesota, Wisconsin, and Kansas. Experience would seem to dictate that the reviewing board should have no ex officio members.

CHAPTER XVIII

POSSIBILITIES FOR IMPROVED ASSESSMENTS

The assessing and equalizing agencies have been criticized for their failure to achieve complete listing and uniform assessment ratios. They deserve all the adverse criticism they have received, and it is not now intended to exonerate them from their faults. Yet it must be realized that theirs is a task in which perfection is impossible. A complete listing is conceivably though not practically possible; but a perfect valuation is not even conceivable because the test of perfection, market value, cash value, or whatever other value may be prescribed, is necessarily indefinite.

It is less appropriate, therefore, to rail against faulty assessments than to consider possibilities for improvement that have been and may be adopted. There is no thought of producing here an assessment manual, or even of giving detailed instructions for assessors and boards of review and equalization. Moreover, the list of possible improvements here given is not complete, but covers only some typical cases developed through experiment and analysis.

I. DIFFICULTIES OF ASSESSMENT

With the passing of time the assessor's task has become progressively more difficult. The diversification of both real and personal property, and the complexity of economic organization, on the one hand, and the inertia of democratic government, on the other, have left a constantly widening disparity between assessment practices and the requisites for acceptable assessment. The situation calls for radical changes in both personnel and practices. The desirable changes in personnel and organization have been discussed.

So far as practices, methods, and equipment are concerned, the outstanding difficulty, more and more apparent as time goes by, is the absence, for large portions of increasingly numerous and important classes of property, of adequate market values. If there

are no sales, there can be no market price. And if there is no market price, a substitute must be found. Railroad and other centrally assessed property is rarely sold, as shown in chapter xvii, *supra*. That is one reason, perhaps the chief one, why central assessment is necessary. But scarcity of bona fide sales is not peculiar to railroads. Mr. W. F. Connelly, tax commissioner of Bridgeport, Connecticut, in a paper read before the Twentieth Conference of the National Tax Association at Toronto, Canada, said:[1]

> Sales of industrial and commercial properties are comparatively rare. When industrial property is sold, the selling price is usually influenced by factors which have no bearing upon the physical value of the property. If the concern is prosperous it seldom wishes to sell; if it does sell, the price includes capitalization of profits or good will, which is hard to segregate. If a concern is bankrupt it (rarely) has a buyer who will give a fair price. Such sales are usually far below a fair price. And even if this kind of property did sell at a fair price, each parcel is usually so different, that prices established through the process of comparison would be extremely unreliable.

Mr. Connelly spoke shortly after engaging in a revaluation of Bridgeport, a city containing "almost any type of property, ocean frontage, harbor and river frontage, city lots and farms, factories, apartments, offices, hotels, and all classes of dwellings." While of ordinary residences there might be enough sales to develop a "basic value," there were not enough sales to do so for commercial and industrial property, hotels, and water frontages. Yet a taxable value had to be ascertained. Such a value Mr. Connelly calls "constructive market value," and that appears to be exactly what any substitute for actual sales value must be, no matter what the procedure used in deriving it.

A similar statement was made by Mr. W. W. Burnham, at the Conference of 1923:[2]

> I could show you in the City of Providence, the principal shopkeeping district, where the most valuable property in the city is located, this quite astonishing fact: There have been two sales of property in a section of Westminster Street six blocks long, in twenty-eight years; and I submit that if it were only possible to fix full fair cash value, or value, or whatever you are pleased to term it, upon market sales, you would not have the element there

[1] *Proceedings*, XX (1927), 296.

[2] *Proceedings*, XVI (1923), 98.

upon which to determine the value. So we resort to the same methods that all assessors do everywhere, as far as my knowledge extends; that is, we consider the element of gross rental, in the case of improved property, of replacement value; we consider the valuation placed upon the property by the owner of it for the purpose of obtaining insurance and for determining fire damage, under the very careful and sometimes violent supervision of the paid insurance appraiser; in other words, we use common sense, which I believe is the greatest element and factor in the assessment of taxes that can be invoked.

As yet no careful comprehensive study has produced a measure of the extent to which sales data, showing bona fide considerations paid for specific properties, fail to furnish an adequate basic value, from which, by comparison, like kinds of property can be fairly appraised. It is common knowledge, however, that for certain standard or standardized commodities, such as farm products, livestock, merchandise, ordinary dwellings, the market value as of the time of the assessment can be deduced with fair accuracy, provided the assessor is adequately trained and equipped. It is equally well known that for certain other classes of property, the market value does not exist. The notable economic changes of the past half-century have increased and are still increasing that part of taxable property for which sales records are unsatisfactory as a basis for taxable value. As one result, the past few decades have seen the origin and development of a new form of functional business enterprise, the appraisal company, whose activities consist in appraising properties for sale, reorganization, bankruptcy proceedings, property divisions, and for other purposes, even for the ordinary, recurrent determination of earnings and assets. The changes that have warranted appraisals in the ordinary exigencies of business are equally significant for the assessment of property for taxation, even though the relatively inert tax laws governing tax bases and assessment procedure tardily recognize the changes.

These changes are manifold and of sundry origins. Economic life is less personal and intimate. The corporate form of organization and the magnitude and far-flung scope of business enterprises, whether subject to public regulation or not, have made it impossible for assessors to know the value of local properties. Newer and much more complex forms of construction have appeared. Divisions of equities, long

rentals, and combinations of rentals and sales have made many of the infrequent sales transactions worthless as indicators of value for many forms of property. Changes in use of properties of whole regions of a city or a state are difficult to measure, except by careful scientific and statistical indexes. Epidemics of alternating business booms and depressions, of unequal severity for different regions and for different types of property, have rendered such sales data as are recorded, and can be secured, of increasingly doubtful validity as a fair basis for tax apportionment.

The tax laws controlling the assessor have not freely recognized these changes. We have seen how tardily the state tax laws arrived at the stage where railroad and certain other property was assigned for assessment to an administrative state board of assessors. The equally necessary changes in the assessment procedure for other property, perhaps not requiring centralized assessment, but still requiring suitable and special methods of appraisal, are conspicuously absent or have been adopted only after protracted attempts at taxation on a uniform value and assessment by uniform methods. The assessment of commercial banks, already described, permitting effective assessment of bank stock, and resulting in unfair discrimination against the banks because the same effective method was not applied to other corporate intangibles, was forced upon the states, and is now facing elimination. The taxation of savings bank deposits to the banks in New England and of general bank deposits to the banks in Kentucky, a species of taxation at the source, has not found general application, perhaps because it has been effective, and because such effectiveness for only one class of intangibles may create discrimination. The low-rate taxes on intangibles, the most conspicuous feature of the classified property tax, had to overcome tremendous inertia and opposition, and is now threatened in the conflict of bank taxation. Elsewhere adjustments have been made as matters of sheer administrative necessity. They have usually only extended to the separate assessment, or the separate listing of different classes of property. A brief rehearsal of these isolated cases of adaptation shows how few and limited they have been and how inadequately they meet the requirements for the assessment of property, for the establishment of whose basic value there are no adequate sales records.

II. ANALYSIS AND STANDARDIZATION

There has developed some degree of analysis and classification of taxable parcels of property. It is correctly believed that by compelling the assessor to enter and value each item of property separately a better assessment is secured. Every classification grows out of a felt necessity; but, in some cases, analysis has been forced upon tax officials because, without it, they could not make the required assessment.

It is usual to find separate assessments of real and personal property. Thus, in Ohio, the county auditor, at intervals of several years, assesses real property, but personal property is assessed annually by assessors in each city, ward, village, or township.[1] The Virginia system is similarly differentiated. For the quinquennial assessment of land, assessors are appointed by the local court. The annual "land list," including corrections for extension or depreciations of real property, is taken by the commissioners of revenue, elected for four-year terms, who also annually assess personal property. It is generally true, especially in states with the local assessment unit, that the county exercises a greater degree of control over real than over personal property.

Separate assessments are necessitated by the diffusion of property rights. For example, standing timber, owned by a person other than the owner of the land, is in most states taxable to the owner. More common is the case of buildings owned separately from the land. Such division of ownership requires separate assessment of what would otherwise be regarded as a unit of property. Separate assessment may result from partial exemption; of one unit of property one part may be taxable and the other exempt. Such partial exemption may come about in various ways. Where a part of the property is still in *the fee* of the United States, this part is not taxable as realty by the state. The interest of the owner, e.g., of timber, minerals, buildings, or other improvements, then requires separate assessment, if it is taxed as property. Nonpatented mines may be of this sort, in that only the improvements can be taxed as personal property. So also are leaseholds of oyster beds, where the title is still in the state.

Equally important are the cases in which the state purposely exempts certain improvements for the purpose of improving industry.

[1] This refers to the Ohio system prior to the changes made in 1931.

Irrigation works are occasionally exempt, either permanently or for a period of years. Here the land must be assessed separately. In California, lands are assessed in parcels not exceeding 640 acres, and tracts (of land) that have been surveyed are assessed by sections or fractions of sections; this provision is probably intended to overcome the tendency to overvalue the smaller parcels. Occasional provisions in other states have similar objects. Much more common is the general requirement that land and the improvements on it shall be assessed separately.[1] The greatest need for this separation of the two parts of realty exists in cities, where both the buildings and their sites are very valuable.

Classification of personalty is difficult because of the great number and variety of forms. It is partly because of poor classification that personalty is so ineffectively assessed; administrative necessity, however, has imposed some degree of classification. Such groupings as livestock, carriages, household goods, growing crops, machinery, and merchants' and manufacturers' stock were necessary from the first. Within each of these classes, further classification has been found necessary. It will hardly do to class sheep and horses together. In certain other groups further classification is indispensable. The variations within, say, each species of livestock are sometimes so wide as to make necessary still further analysis. So it is common to distinguish, for instance, among horses, according to age, quite often not counting those of less than six months, but seldom recognizing any differences after the animals have reached maturity. The same practice is followed with other species of livestock.

The danger in making a detailed classification is that the classes become so numerous that they become unmanageable. Yet too little detail will mislead both the assessors and the boards of review. If the horses, say, of a given county are poor in quality, and are correctly assessed below the average value for the state, this fact will at once become an excuse for the assessors in every other county to reduce the assessed value of horses. And in such instances the state board of equalization is seldom in a good position to make proper adjustments.

Where such danger is not outstanding, the standardization of prop-

[1] For example, Arkansas, California, Idaho, Minnesota, Montana, New Jersey, Utah, and Wisconsin.

erty is sometimes attempted, so as to assess individual items at the same value. The assessor need then only ascertain the number of items, and multiply that number by the agreed value. If there is but little variation among the separate items of a class of property, or if the individual taxpayers own large amounts of such property, so that the individual differences are lost in the mass, standardization is desirable, because it reduces the assessment to two clerical operations; but in proportion as the items in the class lack uniformity, it results in discrimination.

Two types of standardization may be distinguished. One comes about without sanction of the law, and often in express violation of it; the other is in compliance with the law. Unofficial or illegal standardization occurs when the assessors of a taxing district agree either openly or tacitly on a certain level of valuation—often a specific sum per item. The sum agreed upon is regarded as an average price, and at or near that figure all the items in that class will be valued—a set sum for each horse, a fraction for each cow, and a smaller fraction thereof for each sheep or pig, and so on. This practice seems to have flourished in connection with the annual county meetings of the township assessors. At any rate, it has been disclosed as being particularly well developed in Kansas and Minnesota, in both of which states the local assessors held meetings preparatory to making the assessment. These meetings became schools for the local assessors, in which, to the inequalities resulting from the ordinary failings of the assessor, they now added organized violation of the uniformity rule.[1] The tax commission of

[1] Thus in Dickinson County, Kansas, the following schedule was adopted (quoted in part only):

"Horses, 6 months old and under 1 year	$5–10
Horses, 1 year old and under 2 years	5–15
Horses, 2 years old and under 3 years	10–25
Horses, 3 years old and over	5–40
Sheep, 6 months old and over	2.50
Hogs, per cwt.	2.50
Wheat, per bushel	40c–60c
Corn, per bushel	12c

"On motion it was voted to deduct the constitutional exemption ($200) from the full value of personal property and to divide the remainder by 3.

"On motion, real estate to be assessed at one-third of actual value" (*Thirteenth Report of Bureau of Labor* (1897), pp. 6, 60 ff.).

Minnesota reports, for 1908, 1910, 1912, the tables of assessment ratios or specific sums agreed upon in the counties.[1] Thereafter the tables disappeared, perhaps because the practice has largely disappeared under the vigorous attack by the commission, and perhaps because the attention of the assessors was directed to the then novel experience of the elaborate classified property tax. In both states the annual schools continue, but the agreements are no longer openly made. In these two states the practice, given publicity, has since been eliminated because a period of bad local assessment was followed by a period of vigorous state supervision. That the practice has obtained in other states, there can be no doubt.[2] But, unless the agreements are formally made, there is no record to show that they existed, and the student is not likely to discover them. On the other hand, it is possible to exaggerate the effectiveness of such agreements. If the assessors would not obey the law, it is probable that they would not always obey the agreement.[3]

In states with local assessors, the agreement may be made openly at an annual meeting at the county seat, where a regular schedule is adopted; in others, each assessor tacitly follows his own judgment, with an eye to what the others are doing. Where the unofficial schedule provides a value less than the legally required value, as it is bound to be in most instances, it amounts to a violation of law. The attitude of the tax commissions is, therefore, predetermined; they must oppose it. The attitude of the Minnesota tax commission, which is fairly typical of the attitude of tax commissions in general, may be indicated by the instructions given to the local assessors in the 1920 *Assessor's Manual:*

> Question. Is an agreement between assessors as to the basis of valuation for any class of items of real or personal property valid?
>
> Answer. All assessors' agreements and compacts to assess property in any

[1] Pp. 64–70, 442–49, 746–52, respectively.

[2] From personal experience the writer can say that it prevailed in South Dakota twenty-five years ago.

[3] The following is suggestive of that fact: "The writer attended the meeting of one board, where assessors openly stated that they would not pledge themselves to assess at any fixed ratio, as they knew that some of the assessors present would assess it (*sic*) at a less ratio than that which was adopted, whatever that might be. Harmony was finally obtained by the passage of a resolution to assess at the usual ratio, and a general laugh followed the inquiry by one innocent member as to what that ratio was. No one seemed able to answer" (Kansas Bureau of Labor, *op. cit.*, p. 76).

other way or on any other basis than that provided by law are illegal and absolutely void.

Question. Is it legal for an assessor to determine the average value of each class of livestock in his district and apply this average to each animal found?

Answer. No, this practice is in direct violation of law. The assessor is required to separately determine the value of each animal.

While in general the standardization is illegal, occasionally it is required by law. It is frequently provided that certain property must not be assessed below a specified figure per unit. Nevada requires that patented lands and lands held under any state land contract are to be assessed at not less than $1.25 per acre. New Mexico requires the state board of equalization to determine the minimum value of all property.

In a few states a uniform value is fixed by the state board of equalization, or by some other administrative body. Wyoming requires that the state board of equalization shall fix a uniform value per head of all cattle. Somewhat similar is the Arizona provision requiring the assessor to value all lands within an irrigation district at the same value per acre. New Mexico also provides for uniformity of the assessment basis for livestock, but introduces the principle of graduation, or classification, according to location. The state is divided into three zones on the basis of distance from markets, and uniform value per head is required within each zone.[1] An even more elaborate scheme of standardization is suggested for Arizona.[2]

The requirements of uniformity given above indicate adaptation to local peculiarities. Of herds of cattle on the range, to value each head separately either is impossible or would cost too much. The value per head is low, and the cost of assessment must be kept low. Then too, such cattle in a given section are usually fairly uniform in quality.

An attempt to employ the early colonial system of specific valuation on land has recently been made in North Dakota, with important modifications. The county commissioners are required, upon petition of 50 per cent of the resident freeholders of acreage property in a county, to have compiled a classification of all acre property within the county, subject to the approval of the tax commissioner.

[1] J. E. Saint, "Tax Problems in New Mexico," *Proceedings*, XIII (1920), 331–41.

[2] Charles R. Howe, "Assessment and Taxation of Live Stock on the Open Range," *Proceedings*, XIII (1920), 347–51.

The method of classifying is required to be uniform throughout the State and based upon all true elements of value including proximity to market, topography of the land, percentage tillable, composition, nature, and fertility of soil. Land is classified in units of 40 acres each into 40 classes ranging from land scheduled at $190 to 200 per acre value to that scheduled at $1.00 to $2.50 per acre. After final approval of such classification, assessors, supervisors, and local boards of review are required to use same as a basis of value of acre property.[1]

It is not yet known what the results of this cadastral system have been. A similar provision exists in Montana, except that the law is mandatory upon county commissioners.[2] The same principle has been applied in Utah in connection with the valuation of coal lands.[3] It is not probable that the principle of standardization can be extensively applied in other states; but, where applicable, it makes for economy in the assessment, and for certainty on the part of the taxpayer as to the amount of his tax.

There is, however, an important difference in principle involved. The general property tax is an ad valorem tax. If a uniform valuation is used, the tax becomes a specific tax; it is no longer a specified amount on each dollar's worth of property, but a specified amount on each unit of property.

III. SCIENTIFIC APPRAISALS

It will be noticed that the changes in assessment laws and procedure, in so far as they are good, are relatively insignificant. They do not begin to touch the problems of the assessment of property that is difficult to assess. To make possible the adequate assessment of property for which there is no market and of which sales are so few and unrepresentative as to furnish no criterion for a basic value, a much more revolutionary remedy is required. It will be necessary to develop and to secure constitutional, statutory, and judicial sanction for some other value than market value, a constructive market value perhaps, to take the place of the contemporary expert guesses as to market value which prevail largely because there is no actual market value against which

[1] *Digest of State Tax Laws*, p. 335. [2] *Ibid.*, p. 243.

[3] William Peterson, "Appraisement and Assessment of Coal Lands," *Proceedings*, XIII (1920), 399–405.

they can be checked. It will also be necessary to employ technicians of various sorts, such as economists, statisticians, accountants, engineers, and tax administrators, to develop a technique of the constructive market value.

As a matter of fact, some progress has been made, not only toward obtaining legal sanction for the constructive market value, but also toward development of administrative methods by which such constructive market value may be arrived at for assessment purposes. The courts have been driven to accept constructive value for railroads and other public utility properties. They have likewise been driven to accept it, in part, for taxation purposes for such property as is centrally assessed. The assessed values now arrived at by administrative tax commissions are not market values; they are constructive market values, analogous to those that must be sought for all such property as cannot be assessed on the basis of market value. The courts have also sanctioned the constructive market value where the corporate excess, the total value of a corporation in excess of its physical property, is taxed. We cannot be so sure that they have sanctioned it as fully for such nonutility property as factories, office buildings, hotels, and mercantile places of business. The technicians have also made progress. Constructive market value is in fact the tax base for much real property in many cities. Inasmuch as the courts or the legislatures cannot be expected to go much farther in sanctioning constructive market value until technicians have demonstrated its possibilities as a fair tax base, we shall now point out what these administrative methods are and what is required in order that they may succeed.

It is well to bear in mind that constructive market value need not be a perfect basis to be justified in preference to the market value, now supposedly used, for some classes of property. For market value is never a perfect basis. Those opposed to the use of sales value as a check upon assessed valuation argue correctly that the sales prices are not always representative. However, the use of sales records as a test is not thereby precluded, so long as they do not show bias, but merely chance variations. If we had a perfect normal basis, reflecting ideally fair value, it is certain that the deviation of individual actual sales prices from the ideal base would be appreciable. Even with a class of property most easily assessed on the market value basis, it is possible

that a valuation on the ideal basis might be successfully contested in court by incontrovertible evidence of an actual sale at an abnormally low level. All that is necessary to justify constructive market value is that it shall be no worse than market value. For certain classes, for which there is no market value, it could not possibly be worse.

A constructive market value, defined in terms of its genesis, is one constructed synthetically by taking all the factors affecting value into account so that it shall approximate as closely as possible what the market value would be could one be ascertained. So long as the legal basis is market value, the constructive or synthetic value must be constructive market value. It may be that some time in the future we shall dispense with market value. In other countries, other bases, most of them constructive or synthetic, have been used, being more often related to earning than to capital or market value, chiefly because the market value has not been ascertainable. How long we shall cling to market value as a test will doubtless depend, among other things, upon the continued availability of market values, as shown in actual bona fide sales. But all that is at present speculative.

Inasmuch as the factors that affect the value of property vary greatly according to the character of the property, different formulas must be set up for each major type of property. Here again, because of basic differences in nature, the primary distinction is drawn between land, improvements, and movables. Land and improvements are here treated separately, as they are usually in practice—by law in some states—assessed separately.[1]

A. LAND

Since bare land, as such, has no cost of production, that factor, which is basic in the appraisal of improvements, has only a limited place in a scientific formula for the appraisal of land. The best that can be done is to measure statistically what influence the various characteristics of land have upon its value, as indicated by actual sales value. For urban and suburban land, location is obviously the most important characteristic; for agricultural land, fertility may be more important. Once the relative weight of each factor is ascertained for a taxing dis-

[1] Though there are appraisal formulas for such property as merchandise and manufacturers' goods, they will not be discussed here, reference being made to the discussion of the taxation of circulating capital in chap. ix, *supra*.

trict or a region thereof, the factors can be applied to a typical parcel of property, to establish a basic value; and variations in the several factors for any other property can be used to "forecast" the value for that particular parcel. It is possible, once the data are ascertained, to calculate, by means of multiple correlation, the weight of each factor as nicely as one wishes. Unfortunately only a trained statistician can do this. It is also possible to proceed on the basis of general observation and, through approximations, to secure more readily a less accurate index of the weight of each factor. Such has apparently been the procedure in most of the cities where efforts have been made to appraise land by a synthetic method.

A very interesting and instructive survey and analysis have been made of the weights of several factors affecting the sales value of farm land in Minnesota,[1] to test the validity of using sales records as a basis for assessment. The farms, including both land and improvements, were taken as units. The factors included as influencing sales values were: (1) the depreciated cost of buildings per acre; (2) land classification or the proportions of different types of land on each farm; (3) productivity of the soil, as represented by relative crop yields; (4) distance to market; (5) type of road; and (6) size of market town. By multiple correlation the weight of each factor was calculated, the constructive sales value ascertained and compared with actual sales prices. Similarly, constructive sales values could be calculated for all farms in the county, although safely so only so long as the farms of the county were reasonably homogeneous.

The results were gratifying, not because they showed final relative weights of each factor, even for the farms of the particular county, although, for an initial and rather experimental analysis they were surprisingly satisfactory, but because they showed that such analyses are practical when adequate data and trained skill to apply them are available. For the statistical measures of results the study itself should be consulted, since all the explanatory text cannot be included here, there are possible refinements of the indexes of the factors influencing sales value, and probably not all the factors are included.

For urban property the problem is simpler in one sense, in that loca-

[1] G. C. Haas, "Sales Prices as a Basis for Farm Land Appraisal," *University of Minnesota Agricultural Experiment Station, Technical Bulletin*, No. 9; cf. also same author, "Assessment of Farm Real Estate," *Proceedings*, XVI (1923), 63–87.

tion is the primary factor affecting the value of a unit of land. But, in another sense, the problem is more complex, since the location is a complex factor. Location may be more or less desirable according to its accessibility to the central part of the city, transportation facilities, parks, schools, industrial property, corners, or main streets, etc. In practice, the calculation of indexes of all possible location advantages is not made. The basic unit value is usually taken as that of one linear front foot, lying at right angles to the street, as ascertained from actual sales or from comparison with other blocks.[1] A unit of one linear front foot in the middle of the block is usually selected, because it is presumed to be free from corner influence. The difference in value due to corner location is similarly obtained, and a scale of values for units as they approach corner location is determined. What the corner value shall be is not always agreed upon. By the so-called Bernard rule,[2] the value of a corner lot is the value it would have as an inside lot on the main street plus its value as an inside lot on the side street. Some other rule may fit a local condition better, but any rule should conform to, if not be derived from, the value structure as observed from actual sales values.

The basic value of a unit of an inside lot, the value of a corner lot, and the scale of values for lots between give the skeleton of a relief map of the value structure of the block. But for the appraisal of any individual lot there are yet many other factors. The value of any lot increases with but not in proportion to its depth. The procedure would, therefore, be to ascertain the value of a lot of standard depth. The value may, by the so-called Harper rule, be regarded as varying according to the square root of the depth. The value of a lot of non-standard depth will bear the same relation to the value of the standard lot as the square root of the depth of the former bears to the square root of the depth of the latter.

Lots vary, not only in depth, however, but also in shape, in the linear length facing the street, in level above or below grade, and possibly in a great many other respects, some of which may be of only local

[1] Cf. C. E. Reeves, *The Appraisal of Urban Land and Buildings* (a working manual for city assessors), Municipal Administration Service, Publication No. 11 (1928), pp. 1–56.

[2] A. D. Bernard, *Principles and Problems of Real Estate Valuation.*

application. For these characteristics also, scales can be developed and the final value graded up or down accordingly. The purpose here is merely to indicate the character of such factors.

Separate scales of value adjustments may have to be constructed for each of the factors affecting value, according to the use made of the land. Thus, the depth of the lot, its shape, and the corner influence are obviously not as important for lots or tracts used for manufacturing and storage purposes as for lots used for merchandising or banking. And with residential lots the importance of these factors may be still different.

It is not possible to give in detail the experience of cities with such constructive values. This experience seems, however, to lead rather clearly to certain conclusions. First, such value structures can be made. They have been made.[1] To make them will require the accumulation of a great amount of statistical data, which must be kept up to date to record changes in value and subdivisions or consolidations, with consequent changes in shape, depth, etc. The value structure must be subject to frequent revision; but the labor and cost of the readjustments will be very much lower than the first cost. Second, such value structures are important if not indispensable. Doubtless every assessor not relying upon such a structure of values carries in his head an approximation to one; but the advantages of having the structure based upon facts, and having it reduced to record form are obvious. Third, as one early swallow does not make summer, so also one erratic sale, or even a small number of such sales, perhaps differing widely from the constructive value of a lot, does not necessarily impair the validity of a value structure thus built up.

In recent years it has been attempted, and with some degree of success, to develop mathematical formulas and rules to aid in the assessment of realty.[2] The Hoffman-Neill rule, for example, is used to determine the effect of extra long or short lots on the basis of the information shown in the land value structure described above. The standard lot is taken to be 100 feet deep. Another rule, the Bernard-Lindsey rule, is used to determine the effect on the value of the corner lot. The

[1] E.g., in New York, Buffalo, Denver, and many other cities, including Chicago.

[2] For a brief description of these rules, see Lawson Purdy, *The Assessment of Real Estate*, supplement to the *National Municipal Review*.

Somers rule is used for the same purpose.[1] It is obvious that such rules cannot always be taken as the sole factors in the determination of the value of every lot.[2] Many factors affecting value are not readily reducible to mathematical terms. Even so, the hope for adequate assessment is largely dependent upon their use.[3]

Most lots and tracts will fit into such a value structure. Special problems, such as those of suburban land whose value is influenced by its possible future use for site purposes, may require special treatment. The same is true of land within a city which is changing from one use to another, or is perhaps of dubious value for any particular purpose. The difficulty here is that sales are too few or that a majority or perhaps all of the prices are erratic. Whether it is possible or practical to construct more elaborate formulas for such property remains to be seen, but the task is being essayed.[4]

B. IMPROVEMENTS

Unfortunately, the progress in the development of constructive values for improvements has been slower than that for land. But the difficulties are much greater, because of the great variety of improvements in respect to structure, use, and stage of depreciation. Adequate sales data covering separate sales of improvements are not available. But appraisals and values of improvements are of fundamental importance. In fact, an accurate appraisal of improvements on land is necessary before the sales prices paid for improved real estate can yield an accurate index of the market value of the bare land. There are, of course, sales of vacant land, and in the developed sections of any city the land may be owned and sold separately from the improvements. But the majority of sales are of improved property. Since the improve-

[1] The formulas involved in the latter were patented and for a time at least kept secret. A company was organized to exploit this rule commercially by selling their service of computing values of corner lots, as well as of standard lots, to assessment departments in cities.

[2] For a controversy as to their usefulness and the propriety of their exploitation by private persons, see *Proceedings*, 1913, pp. 234–85.

[3] For an example of the use of available rules, cf. James J. Casey, "Cambridge System of Real Estate Valuations," *Bulletin*, X, No. 6, 184–87.

[4] E.g., in projects of research now undertaken by the Institute for Economic Research of Northwestern University, Chicago, Illinois.

ments are the temporary and variable element in improved property, it may logically and practically be said, considering individual parcels, that the value of the land is the residual part of the value of the improved property, obtained by deducting the value of the improvements from the value of the entire parcel. Hence the pivotal importance of accurate appraisals of improvements. Such accurate appraisals are necessary, not only for the correct assessment of improvements, but also for the development of an accurate land value structure.

It would be easy to misconstrue the foregoing argument and to deduce therefrom that a separate value structure for land, and the now quite commonly practiced separate assessment of land and improvements, are impracticable or meaningless. So long as we are considering only one parcel, it would be meaningless to segregate the value of the land by deducting the value of the improvement from the total value, and then to add them to get the total value of the parcel. But the mass of residual values of land, ascertained from the segregation of land and improvement values on the basis of numerous sales, when combined with the sales of bare land, constitutes the raw material from which must be fashioned the land-value structure considered in the preceding section, if it is to be fashioned at all. Consciously or unconsciously, assessors, as well as buyers and sellers of property, must consider the elements of this process, if they are to make rational assessments or exchanges.

Urban improvements are generally reducible to a few major types, namely, residential, commercial or financial, manufacturing, and miscellaneous.[1] But within each class a great deal of sub-classification is required according to structure, material, size, and shape. A careful and detailed classification is an elaborate task. But it is necessary, and experience shows that it can be made.[2] For each class of property, a reproduction cost, on the basis of present labor costs and material prices, can be ascertained with tolerable accuracy. From the reproduction cost of the various properties in the same class, a standard unit cost per square foot or cubic foot can be computed, which should be useful as a basis for the first approximation for the assessment. Archi-

[1] Cf. Reeves, *op. cit.*, pp. 57–160.

[2] Cf. W. F. Connelly, "The Valuation of Industrial and Commercial Properties for Taxation," *op. cit.*, pp. 295–308; also Reeves, *op. cit.*

tects and contractors use such unit costs as approximations subject to correction for special conditions. But the assessor is more often concerned with depreciated replacement costs than with reproduction costs. And perhaps the most difficult part of his task is to determine the degree of depreciation, which involves every factor that tends to depress the value, including physical condition, obsolescence, fitness for use in present location. Depreciation nearly always necessitates an appreciable deduction from the replacement cost. It may destroy the value of the improvement entirely, or even depress the value of the land below its bare-land value, by the amount of the cost of demolishing the building. The 1928 reassessment of Cook County disclosed the phenomenon, probably familiar to most city assessors, of many old buildings in the "loop district" that were not improvements but detriments, being in "advanced stages of obsolescence."[1] But even here, by assembling data as to the life of buildings of different classes in different locations, standard rates of depreciation can be developed, which may serve as approximations in particular cases.[2]

By adding the constructive value of the land and the constructive value of the improvements, the total is obtained. This total can be adjusted to any assessment ratio which, for any reason, obtains in the district. To it can also be added any amount for the intangible value of the enterprise. But the constructive value would cover only the tangible property.

It was not to be expected that everybody should see the possibilities of the constructive market value, especially in view of the experimental stage of the practice. It has been objected that to apply the depreciated reproduction value in the assessment of certain classes of real property will result in overvaluation, so long as exchange value is used for the rest. It is contended that such procedure will legalize overvaluation of property for which there is no market value.[3] But this is not necessarily

[1] Cf. Simpson, *Tax Racket and Tax Reform in Chicago*, pp. 63–70. "As a matter of fact there are many such properties, where the building is worth *less than nothing* by the cost of demolishing it and hauling it away."

[2] Cf. Reeves, *op. cit.*, pp. 157 ff., and charts.

[3] E.g., C. J. Tobin, remarks in *Proceedings*, XX (1927), 301–4. "The difficulty presented everywhere, not only in New York but all over the country, is that you use for the bulk of the property a particular basis of assessment—exchange value or sale value—and then set up an entirely different basis for the more extensive property, the property that is not sold."

true. In any event, there being no sales value base, some substitute must be found. How well the constructive market value, as here defined, will meet this test remains to be seen. The experimental stage of the practice is indicated by some ex tempore remarks made by Professor Fairchild, in discussing the paper read by Mr. W. F. Connelly, cited above:[1]

Mr. Connelly is trying to substitute something for value in the assessment of industrial property. I seriously doubt if his device is legal. . . . . But I have confidence that Mr. Connelly knows his business well enough to take care of himself on that matter. The fact is that he has something which is going to work; it is going to stand the pragmatic test of workability. . . . . In other words, he is engaged now in practical research work, for the purpose of finding some tax base which we may substitute in place of value which will not work, and I believe he will find it for this particular class of property. When he does, my imagination is able to carry me to the point when the Connecticut legislature may amend its laws and may say that industrial property shall be assessed upon the basis of reproduction cost less depreciation. When that is done, one class of property will be taken out of the realm of vague speculation and put on the sound basis of engineering and technical skill; and in the course of time other classes of property may be given the same treatment.

C. REQUISITES FOR SCIENTIFIC ASSESSMENT

It is well to remember that such a system of constructive values has certain requisites, without which it can function no better than the existing practice of listing and assessing on the basis of personal judgment, or without which perhaps it cannot function at all. In the first place, the assessor must know his business. The constructive market value must be arrived at through consideration of substantially all the factors affecting value. It is not necessary that the assessor shall be at the same time an expert statistician, economist, accountant, and engineer; but it is requisite that he shall be able to employ experts and to judge in an executive capacity their work.

In the second place, it is necessary that adequate appropriations be made for the assessor's office to provide equipment and employees for procuring the original data and for keeping them up to date as changes occur. It is probable, after the first land-value structure has been made, after the improvements have been classified, and the detailed informa-

[1] *Proceedings*, XX (1927), 303.

tion collected, that to keep the records up to date and make the assessments will require no more work than the present assessment. But the employees should be employed continuously and the research work should be continuous. A card file covering every individual parcel should be kept, with all the necessary data, in duplicate, for the file, and for use of the assessor when he inspects the property.

This file should be supplemented from time to time with notes on changes that have taken place, such as sales, considerations, leases, uses, consolidations, divisions, mortgages, or other incumbrances. In this way it should be possible to accumulate information regarding separate pieces of property that would be useful for the current assessment, and would, in turn, be supplemented by the data of each recurring assessment. Changes taking place in any section of the city would be discovered by merely correlating the data already on hand. Such a file will be most useful in a large city. But even in smaller places, to some degree in rural districts, it would be useful. Incidentally, it might be made to serve other purposes than those of the assessor. Every parcel should be easily identified. For this purpose the ordinary street number would serve better than the cumbersome legal descriptions usually attached to tax records.

Finally, the office of the assessor should be supplied with maps. This need is more generally recognized. Maps are needed to assure the assessment of all parcels of property. There should be one set of detailed, separate maps, showing ownership and street connections, for each block or tract, for the file, and for use of the assessor when he inspects the property. There should also be larger maps of the whole city, or, in a large city, of sections, to show the basic values for each block. Such maps, besides being helpful to the assessors, should aid in settling disputes with aggrieved taxpayers. In brief, the chief advantage of the methods of appraisal of land and improvements here discussed is that they remove the assessment from the realm of the personal judgment of the assessor and base it upon records that are available for inspection, criticism, and correction. While they are still in the experimental stage, the results so far prove that constructive assessments are possible and worth while.

CHAPTER XIX

TAX RATES AND TAX RATE LIMITATIONS

In most states the tax rate is primarily a mathematical function. It is, from the treasury's point of view, the quotient of the revenue to be raised, divided by the assessed valuation on which the revenue must be raised; and, from the taxpayer's point of view, the factor by which the value of a parcel of property must be multiplied in order to produce the taxes due on it. If the tax rate were merely such a function and no other meaning had been attached to it and no other use made of it, there would be little need for separate discussion of it. But the tax rate is often made to serve as a measure of the tax burden; even though as has been shown,[1] for such a use it is likely to be misleading unless it is used with great care. Again, it is often, in fact in most states, made to serve as a tax-limiting device, designed to serve the purpose of control of public expenditures. Here, also, though convenient and necessary at times, it has limitations, later to be pointed out. The treatment of property tax rates easily leads beyond the scope of a treatise on property taxation, however, into the fields of public expenditures and public budgetary control. Hence the discussion of tax rates and limitations must be brief and perhaps arbitrarily delimited.

I. TAX RATES AS MATHEMATICAL FUNCTIONS

The tax rate, as it appears to the taxpayer, is usually a composite of many separate rates. First, his city or town imposes several rates, as for the general fund, the street fund, interest or sinking fund, highway fund, etc. Second, the state, the county, and the school district or corporation, and perhaps a number of other special tax districts, impose taxes; the several rates of which, added together, constitute the aggregate rate applied on his property. Inasmuch as in some states the rate does not appear for state purposes, or occasionally even for county purposes, it is desirable to treat state rates and local rates separately.

[1] Chap. iii, *supra.*

A. THE STATE RATE

The use of the property tax rate is not identical in all states. Generally the state tax is a percentage tax, although sometimes it is apportioned. By the former method, the legislature specifies the rate of the tax, leaving the yield to be automatically determined;[1] by the latter, the yield, or amount to be raised, is specified. The latter is the more direct, for the rate in the former must originally be set, and from time to time adjusted to yield what is needed, i.e., the amount appropriated and not available from other sources.

In some states, the legislature determines specifically either the rate or the lump sum; in others it simply appropriates money, leaving the detailed computation of the taxes to some administrative body. This is characteristically done by summarizing all the appropriations, deducting the estimated revenue from other sources, and dividing the deficit by the valuation of the property to be taxed, the quotient being the rate. Nowhere do state officials make their own assessments, prepare their own tax roll, or collect the taxes extended on it.[2] The amount to be raised or the rate of the tax to be imposed, whichever it may be, is certified to the proper county or town officials, whose duty it is to extend the tax on the local roll, to collect it when due, and to forward the due share of the revenue collected to the state treasury. In such instances there are numerous state and local rates.

In eleven states the state quota is apportioned among the smaller divisions in a lump sum on the basis of local assessed valuations, as equalized by the state for this purpose. In five of them,[3] the legislature makes the apportionment on the basis of the aggregate valuations as equalized for state purposes. In the other six it is done by a state board or a state official. Idaho, Oregon, and Washington delegate this task to the state board of equalization, while Michigan and New York confer it on the state tax commission. New Jersey furnishes an example of

[1] Such is strikingly the case where, as in Colorado and Minnesota, and other states as well, the revenue produced by a levy at a specified rate, say 1 mill on each dollar, is appropriated for some specific function, such as higher education. In such cases a part of the state property tax may be apportioned and the rest a percentage tax.

[2] Except where the state collects, for its own use or for local apportionment, the taxes on certain centrally assessed property as shown in chap. xvii, *supra*.

[3] Connecticut, Maine, Massachusetts, New Hampshire, and New Jersey. The lump-sum apportionment is of New England origin.

extreme centralized state control over the entire tax machinery. There is no specific state tax rate, nor a specific local rate, but only an aggregate rate for each taxing district, determined, as follows: State requirements are certified to the county board of taxation, appointed by the governor for each county. The "board of chosen freeholders" of each county certifies to the county board of taxation the amount for the county; every other political unit authorized to levy taxes certifies its amount to the county board of taxation, which then computes a rate sufficient, with 10 per cent added for contingencies, to raise the aggregate amount. A different arrangement obtains in Wisconsin. The amount required by the state is apportioned among the counties on the basis of the state equalization. To this amount each county adds its own requirements and apportions the total among the cities, villages, and towns on the basis of the equalization made by the county commissioners. The local divisions raise the amount thus required plus the amount required for their own use on the basis of the valuation as equalized by the local board of review. State control extends only to the apportionment among the counties. The counties similarly control the apportionment only among the local divisions, which in turn may use their own valuations.

In another group of states the legislature votes the state rate, usually each year, but, in a few states, less often, the rate remaining the same during the interval. The rate voted by the legislature may be a single rate, or may consist of a number of specific rates each imposed for a specified purpose. In most states, the legislature votes the rate without constitutional restriction, but in Alabama the general rate may not exceed 6.5 mills on the dollar; Arkansas places the limit at 10 mills; Louisiana, at 4.25 mills; and New Mexico, at 4 mills for the general rate and 10 mills for the total. Missouri limits the general rate to 1.5 mills when the total valuation of the state has reached $900,000,000, a rate of 2 mills being permitted up to that time. In Montana the rate is 2 mills after the valuation has reached $600,000,000, a rate of 2½ mills being allowed up to that point. Why the limit should vary with the valuation is not clear. It is suggested that the provision for varying the rate with the valuation was

based upon the fallacy that the expenses of the state would not grow as rapidly as its taxable wealth. Moreover, the reduction required in the rate was in

some cases so great that the total revenue under the new rate was necessarily much smaller, notwithstanding the increase in the assessed valuation. Thus the Board of Equalization in one state was compelled for several years to keep the assessed valuation below the amount named in the constitution, as otherwise the lower rate of taxation which would have been necessary would have resulted in a serious deficit in the revenues of the state. Idaho, whose constitution contained a provision of this character, repealed the requirement in 1906.[1]

Where the constitution limits the tax rate, it usually contains provisions for exceeding this limit in case of necessity. Emergency taxes may be imposed in excess of the limit for such purposes as paying the interest and principal of the public debt, suppressing insurrections, and granting bounties. Quite often, also, special taxes, not of an emergency nature, are imposed, in addition to the general rate, for the maintenance of schools, for construction of highways and other public works, and for deficiencies in the state budget. Such special taxes often become numerous and more important than the general rate, for usually only the rate for the general fund is thus limited.

In a final group of states the legislature either votes the tax in a lump sum or simply makes appropriations as needed. The task of computing the rate is then performed by some administrative body or state officer, usually the state board of equalization. Indiana, New Mexico, Oregon, and South Dakota have assigned this task to the tax commission; in Texas it is assigned to the ex officio state tax board. In Illinois there is a budget board especially constituted for this purpose. Georgia requires the governor and the comptroller to "levy" this tax. West Virginia assigns the rate-making to the board of public works. The state auditor computes the tax in Ohio. Six of this group of states impose constitutional limitations. Colorado, North Dakota, and Wyoming place the limit at 4 mills for the general rate; Oklahoma, at $3\frac{1}{2}$ mills with an allowance of 20 per cent for delinquencies, and South Dakota, at 2 mills. Utah attempts to adjust the limit to the increasing valuation of the state, permitting 8 mills until the valuation reaches $200,000,000, then 5 mills until it reaches $300,000,000, and placing the

[1] Isidor Loeb, "Constitutional Limitations Affecting Taxation," *Proceedings*, I (1907), 79.

limit at 4 mills thereafter. The stated maximum valuation has already been doubled. Utah, like Missouri and a few other states, permits the limit to be exceeded if authorized by the electors at a special election. In West Virginia the board of public works in its discretion fixes the rate between 1 and 3 mills.

In computing the rate it is necessary to allow for delinquencies. The allowance permitted is sometimes determined by the legislature, and varies generally from 10 per cent to 20 per cent of the sum to be raised. This problem does not arise, for purposes of the state tax, in the states which apportion the state tax in a lump sum among the smaller divisions. It assumes a different form. The localities must raise the net amount required by the state. In some of these, the state holds the local division, usually the town, responsible for the amount required.

It has been proposed that the state requirements should be apportioned among the counties, not on the basis of the assessed and equalized valuation, but on the basis of the public expenditures of all the spending units of each county. The objects sought were in the main of two classes. It was argued that the tendency of the local assessor to undervalue property in order to escape the state tax would be eliminated. It was also argued that this method would be an inducement to economy on the part of the local units. Such a method of apportionment was provided for in Oregon, to become operative in 1910. The "Mulkey Commission" of 1905 believed that the new method was "calculated to eliminate all the evils of the general property tax, except the problems of personal property taxation."[1] A minority report, however, strongly opposed the apportionment on the basis of expenditures, contending that it would be unjust and involve an apportionment very different from that effected on a value basis.[2] Before the law became operative it was held unconstitutional,[3] and a later special tax commission reported that the method possessed no advantages, and would, despite changes in the constitution designed to sanction it, still be unconstitutional.[4] Apparently the method has not won favor anywhere.[5]

[1] *Report of Oregon Commission on Assessment and Taxation, 1906*, pp. 66–72.

[2] *Ibid.*, pp. 303–7.

[3] *Yamhill County* v. *Foster*, 53 Ore. 286.

[4] *Report of the Committee on Tax Investigation, 1923*, pp. 130, 131.

[5] Cf. Corbin and Foote, *Proceedings*, v, 253–69.

B. THE LOCAL RATES

The tax rate for the county is generally determined by the county commissioners. Apparent exceptions to that rule are found in the South and in the New England states, where there is no important county organization and where the corresponding bodies of the towns compute the town rate. Limitation of the tax rate for counties is much more common than for states. The legislatures exercise a paternal supervision over the smaller divisions, and the tax limitations are one of its most frequent expressions.

Where the rate or the amount is determined by the state legislature, no other restrictions are necessary. In five states,[1] commissioners may levy taxes at such a rate as will yield the required revenue. In all other states the rate is restricted, while in only a few instances is it required that a minimum amount must be raised. The restrictions are sometimes imposed by the constitution, but oftener by statute. It matters very little to the county commissioners at a given time, whether the limitation is statutory or constitutional; but the latter is almost unchangeable, and for that reason objectionable. Ten states[2] have constitutional maximum county rates for the general fund. Rates for special funds, of which there are usually several, are similarly but less frequently limited. Usually the limit is graduated on such bases as population or valuation. In Colorado the maximum rate for counties of the first class is 3 mills; of the second class, 6 mills; and so on until those of the tenth class may levy 25 mills. In Missouri, counties having a valuation of $6,000,000 may levy 5 mills; there are three other classes, of which the highest, with valuations of $30,000,000 or over, may levy not to exceed 3.5 mills for general county purposes.

Occasionally, a minimum is also provided for special purposes such as schools or highway construction. While the state legislatures will not usually permit the counties to spend too much for all purposes, they have sometimes found difficulty in inducing some counties to spend enough for certain purposes that are of interest to the state as a whole. The two principal devices to induce such spending as is desired are minimum requirements and grants in aid. Thus Missouri, by con-

[1] Delaware, Idaho, Michigan, New York, and Oregon.

[2] Alabama, Arkansas, Florida, Illinois, Kentucky, Louisiana, Missouri, Oklahoma, Texas, and Wyoming.

stitutional provision, requires the counties to impose a tax of 4 mills for school purposes; North Dakota, a tax of 2 mills. Colorado counties must levy not less than 2 mills and not more than 5 mills for school purposes.

Rate-making in the cities does not differ from that in the counties, but the limitations are more elaborate. The city council, or corresponding municipal authority, determines the amount and sometimes the rate. But the rate-making practices of the selectmen of a rural New England town government, still extant in places, and of the municipal government of a modern metropolis, differ widely. The selectmen of Connecticut determine the amount that must be paid, extend the taxes on the roll, and make out the individual tax bills. This is obviously impossible for the city council, hence the work of computing the tax rate has been delegated to a committee of the council, or to some administrative official, or finally, as in New York City, to a special board or department of assessments and taxes, leaving only the work of deliberation and approval or rejection of municipal functions to the city council as a whole.

The wider variety of public functions in the cities than in the counties has given rise to certain differences in the limitations. The rate limits are nearly always graduated, and the range between the maximum and the minimum is often wide. Thus in Minnesota, townships with a valuation of $100,000 or more may not levy over 2 mills[1] for general purposes, while for others the limit is set at 5. In Kentucky the constitutional limits are, in cities of 10,000 population or less, 7.5 mills; in cities of between 10,000 and 15,000, 10 mills; and in those having over 15,000, 15 mills. The constitutional limit in Oklahoma ranges from 3 mills in townships, through 5 mills in villages, to 7 mills in cities. The basis of the graduation for cities is usually the population, while in the counties it is more frequently the valuation.

The school district or corporation is a relatively new jurisdiction, in

[1] But these limits apply only to the rate for the general fund. Townships may levy, for roads and bridges, 10 mills; for support of the poor, 5 mills; and school districts within may levy 15 mills for ordinary functions, and 10 mills for the erection of a schoolhouse. These rates are based on the assessed valuation, which in Minnesota is required by law to range between 25 per cent and 50 per cent of the true valuation.

some respects irregular, and everywhere widely variable, yet a jurisdiction which spends more money than any other local political unit. Like an improvement district, it is created solely for the purpose of administering a specific function in the area covered, which may be coextensive with some other political division, such as the township, the village, the city, and in some cases, the county; but very often it cuts across the boundaries of other civil divisions. It is the duty of the board of education to prepare the budget for the corporation. The amounts needed are certified to the town or county officials, who make the actual extension on the roll.

Except for the extensive and varied tax limits applying to school corporations, nothing more need be said concerning them. Limits upon the amount or the rate are characteristic of practically all states, and have at least two quite different objects. One is to secure sufficient revenue for school purposes as they are conceived by the representatives of the state as a whole. Schools draw revenues from several miscellaneous minor sources. In so far as these sources fall short, and they usually fall far short, of defraying the entire cost, especially of the common or elementary schools, property taxes are used. Often the state makes a levy for the schools at a specified rate, or sets aside from its general fund a lump sum for school purposes, both state and local. It may levy a "mill tax" for the state university, or for the common schools; or may provide a subvention or grant in aid from the state school fund or the state general fund, apportioned among the local school districts or corporations on some convenient basis, frequently the number of children in attendance. The counties are often required to levy a tax at a specified rate for school purposes. In addition to these varied sources, the local school corporations are usually required to raise specified minima.

More common, however, are the maximum rates. The legislatures try to prevent the local divisions from spending too much of their own money for local purposes. When it is recalled how little stir is usually made at a school election, and one appreciates how easily abuses creep in, the restrictions are in general justified. A uniform rate for all districts in the same state, or even in the same county or township, is rendered impossible by the wide variation in the ratios of taxable property to necessary school costs. The basis of graduation of the

school tax rate is usually the assessed valuation. Districts with low valuation in proportion to school population may be permitted to levy a tax at a higher rate than districts with higher valuations, at least in case of the rural schools.

A few states impose taxes on specified types of property. Special taxes on realty levied by improvement districts are in point, but the practice is not limited to realty. In Idaho, there has been levied at the

TABLE 90

TAX RATES ON PROPERTY TAXABLE IN THE TOWN OF NORTH CHICAGO WITHIN THE CITY OF CHICAGO, FOR 1928 TAXES

Tax Levying Unit	Tax Rate* (Mills per Dollar)
State of Illinois	3.0
Cook County	4.6
Cook County Forest Preserve District	1.0
Town of North Chicago	0.5
City of Chicago	17.5
Schools of Chicago	15.3
Lincoln Park Board	4.5
Lincoln Park Board (bonds)	2.1
Sanitary District of Chicago	4.6
Total	53.1

* The tax rate is conveniently expressed in mills per dollar of the taxable valuation. In certain states, however, it is more familiarly expressed in dollars per $1,000. Occasionally it is expressed as a percentage of the valuation. It should be remembered that the rates of Table 90 apply to an assessment ratio of less than 30 per cent of full value.

time of the regular annual levy, a tax of ½ of 1 mill on the dollar of the assessed valuation of all horses, cattle, goats, mules, asses, and swine, and 4 mills on the dollar of the assessed valuation of all sheep, for the purpose of exterminating predatory animals.

C. AN EXAMPLE OF TAX RATES

An idea of the multiplicity of tax rates applying to property situated in a given place may be had from Table 90, which shows the aggregate rate applicable to property located in the town of North Chicago, within the city of Chicago, for taxes normally payable in 1928, but which were not, on account of the delay incident to the reassessment of Cook

County real estate already referred to, actually collected until 1930. The "aggregate rates" here given are in many cases the sum of many separate rates for specific purposes, such as the general fund, streets, and municipal library.

The number of separate individual rates that make up the aggregate rate for all purposes will vary with two sets of conditions, namely, the variety and complexity of the governmental services made chargeable upon property in a given location and the decentralization of the governmental organization. Cook County furnishes an example of extreme decentralization. Thus Cook County Forest Preserve District is coextensive with Cook County and in charge of the same officers, the Cook county commissioners, but is nevertheless a separate municipal corporation. Within the city of Chicago are decadent towns, some of which still levy taxes, North Chicago being one. Chicago schools are for all practical purposes also a separate corporation, coextensive with the city of Chicago. Lincoln Park Board also levies taxes for a separate corporation covering two towns within the city. The Sanitary District of Chicago is likewise a separate corporation covering all of the city of Chicago and a part of Cook County outside of Chicago. In contrast, a rural township in a rural county in Illinois might be taxable only for state, county, township, and school district purposes. In other states, with a still simpler form of organization, the number of tax rates might be reduced to one.

II. TAX LIMITATIONS AND THEIR RESULTS

To appreciate the limitation of tax rates, it is necessary to draw from the experience of the states that have practiced limitation to learn whether or not the hoped-for results have been attained. Ohio has had an outstanding experience with tax limitations.[1]

Where the tax limits occur in the constitutions of the states, they represent distrust of the legislature in the minds of the electorate. The statutory limits for the counties and other civil divisions indicate the distrust, on the part of the legislature, of the electors of the district in question, or their tax officials, in a matter that affects directly the members of the smaller group and only indirectly the rest of the state.

[1] R. C. Atkinson, *The Effects of Tax Limitation upon Local Finance in Ohio* (1923). To this source the present section is heavily indebted.

This local group must, of their own money, spend not less than the minimum prescribed, and not more than the maximum permitted, for specified purposes. Such restrictions are warranted only where the functions, for which the rates are limited, concern the state as a whole; in such cases the local divisions must be kept from extreme tax policies.

Another objective is the prevention of tax evasion. One reason that the taxes on intangibles cannot be enforced is the fact that the high tax rate often takes over half of the income, as in case of a 30-mill tax on a $5\frac{1}{2}$ per cent bond. If the tax rate were lowered, so as not to make the tax confiscatory, it is alleged that the vast number of such items of property that now evade taxation would be listed. In Ohio it was also hoped that, as the tax rate was lowered, those types of property that had been relatively undervalued would tend to be valued nearer the market value, as required by law. This would tend to increase the tax base, and consequently to bring about a further lowering of the rate, which again would induce more complete listing and more accurate valuation, resulting again in an increased tax base and potentially-lower rates. That was a conspicuous element in the arguments by which the Ohio "one per cent law" (the so-called Smith law) was advocated in 1910, and has since constituted its chief defense.

Finally, the tax limits were deemed capable of serving still another purpose, namely, the limitation of public expenditures and of public functions generally. If the rates and the valuations can both be kept low, the revenue must necessarily remain low, and the expenditures limited. There has always been a class of interests active in limiting public functions. They point to the rapidly increasing expenditures as intolerable burdens.

In presenting the effects of the various tax limits there is room for difference of opinion. A wag is reported to have suggested that the proper remedy for a city in need of additional revenue, whose tax rate had reached the legal limit, was to raise the limit. There is abundant evidence to show that when the need for additional revenue has become pressing under a restrictive tax limit, the remedy that most often has been used has been just such a change in the limit. This evidence is supported by the almost universal provision for the temporary lifting of the limit by popular vote.

Frequently the statutory limit is raised by means of special legislation for certain local units. Such special legislation is facilitated by the general knowledge that the limits ought not to be identical for all counties, cities, towns, or school districts. The experience of Minnesota in this respect is typical.

From the time of the adoption of the constitution in 1857 and up to 1892, the legislature of Minnesota was not prohibited from enacting special laws, that is, laws applying to a single county or municipality. Under the exercise of this power, when a municipality wanted to increase its tax levies beyond the maximum fixed by general or special laws, resort was had to the legislature for authority to make the increase, and, as the bill applied only to the municipality asking for the increase, but little opposition to its passage was encountered. The policy of special legislation became so general that the greater part of each legislative session was occupied in the consideration of purely local bills to the exclusion of measures of state-wide interest. So rampant did the policy of special legislation become that in 1892 the constitution was amended prohibiting the enactment of a special law in all cases where a general law could be made applicable.

The amendment was hailed as marking the end of special legislation, often of doubtful wisdom, and, not infrequently, vicious in effect, because enacted at the behest of special interests or factions. But our joy was short-lived. It was discovered that the legislature could enact laws, general in their character but applicable only to counties or municipalities of a specified class, so the policy of class legislation has taken the place of special legislation, and the evil of the former is almost as great as the evil of the latter.

Our earlier laws applicable to municipalities of a specified class had the virtue of being based on some well-recognized difference in population or economic conditions, but in more recent years almost any fantastic classification, if it does not embrace too much territory, can muster votes enough in the legislature to be enacted into law.

Laws are now passed that are applicable only to counties or cities having a certain population, with full knowledge on the part of the legislature that such laws will affect only one county or one city in the state. Likewise laws are passed that are applicable to counties having an assessed value in excess of a specified amount when there is but one county in the state with the specified valuation. Sometimes the representatives of two or three counties will get their heads together and devise a classification based on not less than and not more than a specified taxable value. Sometimes a combination of assessed value and population is used, and if this takes in too much territory, area or

the number of congressional townships in a county is added to the combination to overcome possible objection. So ingenious have we grown in the art of classification that, in the refinement of its application, it has become almost a fixed science with us.[1]

It is improbable that the tax limits have been any more effective in improving the listing and valuation than in restricting tax levies. There are instances in which the lowering of the tax rate has resulted in so increasing the base as even to increase the yield of the tax from that source. Those instances are found chiefly in connection with very low taxes on special forms of intangibles, such as money, mortgages, and other credits, in lieu of the general property tax.[2] But the potency of a low rate to increase the listing of hidden taxables has been overstressed. Taxes have too much the character of what Ely has called "one-sided transfers." The low rate does not always increase the tax base sufficiently to maintain the yield.

If the presence of a rigid tax limit could have improved the assessment anywhere, it should have done so in Ohio under the "one per cent law," enacted in 1910 and amended at various times since.[3] It provided two kinds of limits: First, the levy for 1911, in any tax district, should not exceed the levy for 1910; the levy for 1912 should not exceed the 1910 levy by more than 6 per cent; the levy for 1913 should not exceed the 1910 levy by more than 9 per cent; and the levy for 1914 and any year thereafter should not exceed that of 1910 by more than 12 per cent. Second, the aggregate rate for all purposes was to be not over 10 mills, exclusive of levies for interest, sinking funds, and certain emergencies which might not bring the aggregate beyond 15 mills. Separate limits were also placed upon each of the subordinate tax districts, as follows: for all county purposes, 3 mills; all township purposes, 2 mills; all city or village purposes, 5 mills; all local school purposes, 5 mills. If the amounts required by the separate units, as reported to the county auditor, aggregated more than the 10 or 15 mills

[1] J. G. Armson, "Tax Limitations and Other Current Tax Problems with Special Reference to Minnesota," *Proceedings*, XV (1922), 41–61.

[2] Cf. chap. vii, *supra*.

[3] This law has recently been repealed, thus adding conspicuous evidence to the general proposition that tax limits, once they really become restrictive, cannot endure.

permitted, respectively, it was the duty of a budget commission consisting of the county auditor, the mayor of the largest city in the county, and the county prosecuting attorney, to adjust the several budgets involved; for this purpose they were given extensive powers.

It happened that a practical test was made immediately. Real property was asessed every tenth year, and 1910, the year of the new law, was the last before the decennial valuation. The assessment of all property rose 161.6 per cent between 1910 and 1912; real property, 162 per cent; and personal property, 159 per cent. The part of personalty that was chiefly sought, namely, that listed by individuals, rose only 68 per cent; while public utility property, listed as personalty, rose 281 per cent, due to special effort or a change in policy of the tax commission by whom such property was assessed. To be sure, personal property listed by individuals, being assessed every year, would gradually increase, while realty remained stationary until a new revaluation. That increase, as far as can be seen, has done nothing more than restore the customary percentage which this class of property formed of the total assessment. As a device for increasing the assessment, especially of that class of property which most generally escaped, the tax limit cannot be proved to have been very effective.

When needed revenue cannot be secured through taxes, it is easy to borrow, not only for special, costly, and durable projects, but also to meet current deficits. "The Municipal Research Bureau of Cleveland reported in 1920 that since 1914 something over twelve million dollars had been borrowed by that city to cover current expenses and deficiencies."[1] Increases in debt are progressively reflected in subsequent taxes, and the percentage of the current tax revenue required to meet the principal and interest charges of the debt, for all Ohio cities, has increased heavily. In 1920, 49 per cent was the average part of the revenue of Ohio cities required for interest and sinking funds, the figures varying from 9 per cent in Youngstown to 86 per cent in Mansfield.[2] In 1922, the cities of Ohio reported that, exclusive of public utility and special assessment debts, the general debt amounted to $217,786,999 of which $31,104,807 or 14.2 per cent consisted of floating debts that had been funded.[3] This by no means represented the de-

[1] R. E. Miles, "Debt Limitation Laws in Ohio," *Bulletin*, VII, 176–77.

[2] *Ibid.*, p. 178.

[3] Atkinson, *op. cit.*, p. 106.

ficiency in current revenue, for many floating debts had not yet been funded, and many public projects had been financed by borrowing which would otherwise have been financed from current revenue.

Though there is no magic in tax-rate limitation to secure adequate assessments or to restrict public expenditures to their proper level, it must be recognized that tax-rate limits are not always unimportant. The tax rate, the tax levy, and the assessed valuation are intimately related factors in the property tax system. If one of them must be changed it is necessary to make corresponding changes in at least one of the other two.

When Kansas, in 1907, undertook to raise the assessed valuation to the full 100 per cent market value, and did, in fact, more than quintuple the valuation,[1] the legislature wisely guarded against excessive tax levies.

> In anticipation of the large increase in values to result from the new methods of assessment provided by the legislature of 1907 a short statute was enacted in substance making it unlawful for any officer or set of officers .... to fix or make any such levy upon the assessments of 1908 which would produce a sum of money in excess of 2 per cent more than the sum which would have been produced by the statutory rates on the valuation of 1907.
>
> In 1909 the legislature specifically limited each tax levy for state and local minimums arrived at by considering previous budgets with allowances for proper increases from year to year as one factor and the largely increased assessment attained in 1908 with probable future yearly increases as the other factor.
>
> In 1907 the average rate of levy for state revenue was 6.456 mills. In 1908 it dropped to .9 of one mill. The average levy for local taxes throughout the state in 1907 was 40.5 mills plus. In 1908 the average levy for like purposes was 7.74 mills plus.[2]

Probably the most important direct argument against the rigid limitation of tax rates is that sometimes valuations change rapidly, and not all to the same degree, or even in the same direction. The current year's expenditures are based largely upon the current year's price level; while the taxes with which these expenditures must be met are

[1] From \$425,281,214 in 1907 to \$2,451,560,307 in 1908.

[2] Samuel T. Howe, "The Determination of a Tax Levy," *Bulletin*, VII, No. 2 (November, 1921), 52.

levied upon valuation based upon the price level of earlier years, the extent of the lag depending upon the frequency of the assessment as well as upon the coincidence of the assessment year with the year of the change in the price level. What takes place when the public budget, inflated through an increase in the price level, must be cared for through the limited revenue based upon previous assessments, estimated on a lower price level, is either an unwise curtailment of the public functions or a frantic attempt to lift the tax limits, either through special elections or through legislative action. Attempts of both kinds took place extensively in the year of 1920–21.

In Illinois, as well as in Ohio, to cite one more instance, tax rate limitation has also failed to produce the desired effect.[1] The constitution limits the entire indebtedness of any local government to 5 per cent of its assessed valuation, and prescribes that taxes must liquidate any incurred indebtedness in twenty years. The statutes provide that local indebtedness can be authorized only by a referendum vote. They also limit the county levy to a specified number of mills. But certain levies, such as those for roads, are excluded; and the restriction is often avoided by the creation of new taxing units or by special legislative acts.[2] The "Juul Law," enacted in 1901 and frequently amended since, originally limited the aggregate rate to 50 mills (on a $33\frac{1}{3}$ per cent valuation); but one levy after another has been withdrawn from the restriction, with the result that the restrictive law has been ineffective.

If the tax limits are stated in the form of a limit to the aggregate rate, as in Ohio and in the Illinois Juul Act, there arises the difficult problem of scaling down not only the rates in the taxing jurisdictions, asking for a rate in excess of the maximum permitted, but also in other jurisdictions, in order that the uniformity of rates required by law may not be destroyed. The original Illinois Act of 1901 provided special maxima rates for each local unit, and the sum of these maxima was about double the maximum aggregate rate of 50 mills. Hence, if, in the same county, town A asked for 75 mills and town B for 40, it would be necessary, not only to scale down the request of town A to 50 mills,

[1] National Industrial Conference Board, *The Fiscal Problem in Illinois*, pp. 32–34.

[2] The first special session of the Illinois legislature of 1930 enacted thirty special laws for financial relief of Cook County taxing bodies, many of which laws provided for adjustment of the tax rates to meet the emergency.

but also to scale down those levies in town B which must be equal in both towns, such as those for sanitary districts and schools, since the uniformity rule requires equality of the rate on all property in the same taxing jurisdiction. Hence the aggregate rate in town B may be scaled down considerably below the 40 mills asked for.[1] The Juul Law was practically repealed in 1929.[2]

III. ALTERNATIVE ADMINISTRATIVE CONTROL

That the state should exercise control over local levies and, more to the point, over local expenditures, will probably not be questioned. A minimum levy may be the simplest way of safeguarding certain local public functions that might be locally neglected, but to restrict local expenditures by means of a maximum tax rate appears to be attacking the problem in the wrong place. Obviously, some very unwise local expenditures may be made without conflicting with the tax rate restriction if the district already has a levy well within the maximum permitted. The proper point of control would seem to be at the time at which the expenditures are being authorized or even planned. After all, there is no mathematical formula that will automatically determine whether a given project is justified or not. Such determination is largely an administrative problem.

The administrative control established in Indiana in 1919, abandoned in 1920, and re-established in a modified form in 1921, may be cited as a better method of controlling local expenditures. Ten or more interested taxpayers in any local district may file a complaint with the county auditor, who must certify the complaint to the state board of tax commissioners. The latter board will then fix a date for a hearing, by one of its members or representatives in a convenient place in the county involved. The decision of the board, whether it approves or modifies the project, is final when certified to the county auditor.[3]

The commission undertook an active educational campaign to acquaint the taxpayers with their rights. So far only a relatively small number have asked for hearings; but the fact that there is opportunity

[1] For an example see C. E. Merriam, *Municipal Revenues of Chicago*, pp. 85–90.

[2] Cf. *Tenth Annual Report of the Illinois Tax Commission*, pp. 30, 31.

[3] Burns, *Associated Indiana Statutes, Supplement of 1926*, sec. 10, p. 139.

for an impartial decision in disputed cases has had a salutary effect. The record of the complaints filed, the number and amounts of reductions ordered, may be seen from Table 91. It is not a particular tax rate that serves as guide to the commissioners, but rather the merit and the legality of the project and the procedure.[1] There has, of course, been opposition on the part of the home-rule faction, in Indiana as well as in other states where a similar form of administrative state control has been less extensively adopted. But the evidence is conclusive that

TABLE 91

TAX LEVY COMPLAINTS FILED WITH AND REDUCTIONS MADE BY INDIANA TAX COMMISSION FOR SPECIFIED YEARS*

Complaints		Reductions	
Year	Filed	Number	Amounts
1921	42	39	$1,254,448
1922	74	46	1,034,572
1923	37	25	1,874,070
1924	42	41	1,467,345
1925	113	65	1,554,004
1926	95	51	1,639,187
1927	134	77	4,674,623
1928	142	80	1,290,031
1929	134	83	3,649,212

* *Report of Tax Commission, 1928*, p. 12, and *1929*, p. 2.

as compared with tax rate limits, the Indiana system of state control is superior.

It is generally agreed that tax-rate limits, while having their legitimate uses, cannot be relied upon as the sole or even principal device for budgetary control of expenditures. Massachusetts in 1912 found that most of the cities operating under tax limits had nearly the same tax rates and were rendering practically the same service as the smaller cities and towns which had no tax limitations; but the debts of the cities had grown by leaps and bounds as the direct result of the effort to escape tax limitations, while the towns had few debts. Cities with tax limits were in a worse financial condition than towns of the same size

[1] Symposium, *Proceedings*, 1924, pp. 151–96.

furnishing the same public services and improvements, but without tax limits. The discovery led to a repeal of all tax limits throughout the state, except in the city of Boston, where they were retained for other than fiscal reasons; bonding and budget laws were enacted instead. We may close the discussion of the effectiveness of tax limits with this conclusion reached by R. C. Atkinson, after a comprehensive study of tax limits in Ohio and other states:

> Limitations in the rate of levy are objectionable because they fail to take account of the variations of taxable wealth of different communities and they disregard variations in financial requirements of different types of communities. . . . . It is simply impossible in an industrial State where great variation in governmental needs exists to devise a set of limitations which will allow adequate revenue for all districts without at the same time permitting extravagance in others, unless the legislature is prepared to deal with each community separately.[1]

[1] Atkinson, *op. cit.*

CHAPTER XX

CONCLUSIONS

If any tax could have been eliminated by adverse criticism, the general property tax should have been eliminated long ago. One searches in vain for one of its friends to defend it intelligently. It is even difficult to find anyone who has given it careful study who can subsequently speak of its failure in temperate language. We may expect opposition to any tax that produces appreciable revenue. Tirades against taxes constitute an American indoor sport in which, as Professor Hollander once said, many must freely indulge "to maintain their self-respect." Of this kind of noisy criticism the general property tax has received its share. All of that we may ignore, as it is expected and often intended that we should, and still have enough careful, capable, intelligent, and disinterested criticism left to establish the need for radical changes. Should some prosecuting attorney drag the tax as a culprit before a bar of justice, he would be embarrassed by the abundance of expert evidence against it. No writer of repute writing on state and local taxation in the United States has failed to offer his bit of derogatory testimony. No commission appointed to investigate any state tax system, which has had time, means, and inclination to secure the evidence, has failed to recommend the abolition of the tax or measures tending toward fundamental modification. Where permanent administrative tax commissions have had time, capacity, and means to busy themselves with what ought to be one of their major tasks, the study and constructive criticism of the state tax system, they have without exception arrived at similar conclusions.

I. WHY THE GENERAL PROPERTY TAX CONTINUES

Yet the tax persists. Not that this tax, largely indigenous to the country, was ever general in practice, general in contemplation of law, or uniform. The preceding chapters should have demonstrated that changes are taking place, both with respect to the universality and the

uniformity of the tax. But the changes occur at a snail's pace; many of them are not directly in the line of progress, and end "somewhere in a blind alley." Among the experiments that led nowhere were the movement for segregation of state and local sources of revenue, once hailed by some as a panacea and still not quite forlorn as a hope of special tax commissions; the attempts to reform the tax system by means of constitutional tax-rate limits, now generally discredited though not without their proper use; and the ineffective attempts to "put teeth in the tax laws," until they bristled with penalties, fines, doomage, and forfeitures. Yet it is not difficult to see why so little progress has been made. It is not necessary to seek refuge in such generalities as the inertia of political institutions, or the inefficiency of democratic government, perfectly valid as such explanations are, as far as they go. The excuses can be made much more specific.

A. GENERAL LACK OF INTEREST AND UNDERSTANDING

If taxpayers in general could be aware of the defects of the system, there would presumably be more intelligent legislative action. As it is, legislatures can be moved to serious thought only by exorbitant tax burdens, aggravated by deflation and depression, or by the most shocking evasion of the tax laws and unconscionably corrupt or inefficient tax administration. Even such "episodes" often pass without leaving much in the way of permanent reform. For example, it has not yet been demonstrated that the outrageous conditions that led to and were not fundamentally cured by the recent reassessment of Cook County, Illinois, will produce anything but mild palliative measures.

It could not be expected that the rank and file of taxpayers should sustain interest in their taxes, beyond evading assessment and complaining before the collector's window, so long as those to whom they might look for leadership have been unwilling to look beyond their own state boundaries for experiences in adjusting tax systems to changing conditions.[1] Not until recent years has there been any appreciable amount of effort even to secure correct records, to analyze and compare conditions in different states and foreign countries through careful

[1] Until recently those who professed any interest in or who were able to undertake studies of foreign tax systems have been few in number, such as Seligman, Bullock, Plehn, and Wells.

research. The lack of interest in facts and methods of acquiring and applying them has left most of the states with ill selected, incomplete, and poorly analyzed and digested taxation records. The size and wealth of the country, its isolated geographic position, and, no less, the conscious policy of isolation, now apparently disappearing, have aided in making not only the taxpayers but also many of those who should be leaders in tax reform provincial and self-contained. David A. Wells pictures a condition that has yet not greatly abated, and the effects of which have been aggravated by the growing economic complexity since the day it was penned:

But popular and plausible as are the arguments and assumptions for such a system of taxation, which, in the case of the United States, has been made operative under state, municipal and local governments over the persons, property, and business of over seventy millions of people, and fortified by a vast amount of adjudication, it will require but little investigation and analysis to satisfy any one who can divest himself of old prejudices of the truth of the following propositions: *First*, that the assumption that it is necessary to assess everything in order to tax equitably involves an impossibility, and therefore unavoidable inefficiency, injustice, and inequality in the administration; *second*, that, as popularly used in respect to matters pertaining to taxation, the term "property" is made to apply equally to entities and to symbols or non-entities, which in itself is an absurdity; and, *finally*, that the outcome of all this is a system which powerfully contributes to arrest and hinders natural development, to corrupt society, and is without a parallel in any country claiming to be civilized. And, in illustration of this latter point, it may be added that, notwithstanding recent discussions and publications, this whole subject is yet so unfamiliar to the people of the United States that probably nine out of ten of its best-informed and collegiate educated citizens, and even members of the bar, take it for granted that the method of assessing and collecting taxes for local and municipal purposes is substantially the same all the world over; and would be greatly surprised to find on investigation that the American system is exclusively American and so little esteemed by the people of other countries as to be for such reasons strictly "non-exportable."[1]

B. INDIVIDUALISTIC POLITICAL ATTITUDES

An additional explanation for the retention of the general property tax may be found in the characteristic individualism of the American

[1] Wells, *Theory and Practice of Taxation*, pp. 394, 395.

people, to which doubtless their origin, their experience in conquering a wilderness, and their isolated position have contributed. Through the general property tax enormous revenue has been collected, although, relative to tax burdens of other countries, the total tax burden has not been heavy. But the taxes have been locally determined, and largely voluntarily paid. The obligation to pay taxes has been tempered by a vitiating voluntary element. The legislatures have set forth the bases on which and the methods by which the tax is to be computed, sometimes in bewildering detail. For the conscientious, law-abiding, and public-spirited taxpayer the path of duty is clear enough, usually, if he is willing to disregard the fact that on every side many taxpayers do not follow the path thus made plain but, by evading their obligation to pay taxes, load vicarious burdens upon others. For the tax dodger there runs through the whole mass of tax legislation and assessment practices a too tender regard; the benefit of doubt is resolved in his favor. It is true that the legislature prescribes and has always prescribed elaborate penalties, but the administrator characteristically does not invoke them. This is partly explained by the fact that the assessor and any other administrator usually finds himself without the necessary public support. Often the tax official finds himself in the position of one who is interfering in a family quarrel, on the defensive both against the tax dodger and the courts, as if he were still a representative of an irresponsible feudal lord or a prince by divine right. For example, the legislature has so far generally refused to enlarge the territorial unit of assessments, although if anything is settled in tax matters it is the proposition that effective uniform assessment cannot be had with a smaller unit than the county. Likewise, the legislature, driven thereto by the threatening breakdown of the whole system of taxing property, has set up a more or less consistent hierarchy of boards of equalization or review. The conclusion in an earlier chapter, that the practice of equalization has done something to make the general property tax psychologically bearable, may be recalled, but it is necessary to add that the legislatures have effectively limited the usefulness of the agencies of equalization by imposing upon them all sorts of restrictions.

No less half-hearted is the mass of authorizations to the assessor to demand information. Apparently he is liberally endowed with power to

demand books and other evidence, as if frequently he could make effective use thereof, but often the most obvious channels of information are closed. For example, the officers of a bank may not be required or may not even be allowed to testify as to the amount of deposits of a taxpayer. Similarly, though the laws bristle with penalties for perjury, fines, forfeits, "doomage," and "fourfolding," the assessor rarely applies them. The really effective remedies, such as invalidity of contracts for non-rendering, and incapacity on the part of the tax dodger to contract, are rarely tried; and, if by chance they are tried, they are speedily dropped. Taxation at the source, where experience has proved that taxes can be effectively administered, has found only sporadic application, as with bank stock generally, corporate stocks and bonds in Pennsylvania, bank deposits in Kentucky, and savings bank deposits in New England. Elsewhere the assessor has had to hunt for elusive intangibles in the hands of the owner, where they cannot be found. The legislatures have been unwilling to heed the recommendations of assessors and tax commissions, except in a few states; and they have so limited the appropriations—again excepting a few states—for the tax departments that the personnel has been inadequate and the basic information so scanty as not to warrant recommendations that would be worth listening to. Not even for the collection of delinquent taxes is there a suitable procedure, and such instructions and permissions to sell delinquent property as exist are frequently ignored by the collector.

The power of the central state tax authority to reassess property that has been inadequately assessed, where the remedy cannot be had by equalization, is severely restricted, although such power is necessary, at least as a last resort. It is not intended here to advocate all or even any such measures as remedies against tax evasion, but merely to point out that by shunning or ignoring them the legislatures and the assessors disclose their unwillingness or inability to establish effective administration.

Obviously under such conditions no other tax, yielding comparable revenue, could have been administered than one whose base was tangible, visible, and immobile. In the assessment of land and of some forms of tangible personal property, the voluntary element has been dispensed with. Where, as with intangibles and miscellaneous personal tangibles, the co-operation of the taxpayer is required, the assessments

have nearly always been failures. That grievous discrimination prevails against the few who are assessed on intangibles and tangible personalty, appears not to have received much attention. The experience with property taxes under such conditions should have led to the exemption of most forms of personalty as a matter of expediency, if not as a matter of justice. That this has not been done must be attributed primarily to lack of understanding.

C. CONSTITUTIONAL RESTRICTIONS

A related explanation of the persistence of the general property tax is found in the practice of loading the written state constitutions with specific, detailed provisions relating to taxation that ought to be accorded only statutory dignity. Certain political principles, or ideas believed to be such, which for the time being are deemed to be permanent, find their way into the fundamental law and are not changeable by the ordinary process of legislation. Only through specified procedure, and usually only on display of overwhelming preference, can constitutional amendments be secured. While the uniformity rule is now disappearing rapidly from state constitutions, it is to be remembered that ill considered detailed classifications are no more proper in a state constitution than is a general uniformity rule.

Constitutional provisions tend to guarantee stability in the field of taxation; this, within limits, is desirable. Established taxes come to be reckoned with in business transactions and business organizations; even some degree of inequality in an established system is preferable to an unstable system; but a system that is practically rigid and unchanging runs to the opposite extreme. Time and again remedies to meet known and recognized shortcomings have been barred, although they were clearly supported by a majority of voters. In our rapidly changing industrial and commercial organization, it is almost certain that more harm has been done by too rigid constitutional restrictions, than by too frequent changes. "It is beyond the bounds of possibility that the wisdom of the present shall suffice for succeeding generations. One of the best features any tax system can have is the susceptibility of easy modification, and one of the worst is a condition of crystallization."[1]

[1] Lawson Purdy, "Outline of a Model System of State and Local Taxation," *Proceedings*, 1907, p. 55.

D. PRACTICAL DIFFICULTIES

A retarding factor is found in the fact that the rates of the general property tax, by reason of its long and apparently permanent use, have become the measures of appropriations for state and local functions and for salary schedules of public officials. Likewise, the assessed valuation has become a measure for public debt limits. The valuation and the rates together have, moreover, become a popularly accepted measure of the tax burden. The inconvenience of changing measures for these purposes may be seen in this statement by the Minnesota tax commission:

First; the salaries of county auditors and their clerks; of county treasurers; and, in part, the salaries of the judge of probate are fixed and determined by the assessed valuation of the county; and if property was assessed at true and full value as required by law, the salary of every one of these officials would be increased to an amount far in excess of that intended by the legislature.

Second; the indebtedness which counties, villages and towns can incur is definitely limited by law; cities of the first class being limited to 5 per cent of their assessed valuation, and the other municipalities to 10 per cent. If all property was assessed at its true and full value it would be possible for all of these municipalities to increase their indebtedness at least threefold.

Third; the power of counties, cities, villages, towns and school districts to raise money by taxation is definitely limited by law to certain maximum rates. For example, the highest rate that can be imposed in any county for general revenue purposes is 1 per cent. The same thing is true at varying rates for all the other municipalities. It is plain, therefore, that the amount of money any municipality can raise by taxation is limited by the amount of its assessment, and it is equally plain that if property in any municipality is assessed at true and full value it can raise three times as much as if the assessment was made at one-third of full value. The rate of taxation in many communities has already reached the maximum, and if assessments were made a higher per cent of the true value than the prevailing custom, taxes would undoubtedly be much higher than they are at present.

Fourth; a very considerable part of the revenue obtained by direct taxation is derived from taxes levied for certain specific purposes at rates which are definitely fixed by law, such as the *one mill school tax* and the *one-tenth mill tax* for the *soldier's relief fund* and the like. The rate of these taxes remains the same year after year regardless of the valuation of the state or of the needs of the institutions for which the tax is levied, and it can only be changed by amending the law. The aggregate rate of all these so-called *special taxes* at present amounts to 2.58 mills on each dollar of assessed valua-

tion, and the total revenue derived from them in 1911 was approximately $3,000,000. If property in that year had been assessed at its true and full value as provided by law, these taxes would have been increased fully three-fold, and would probably have amounted to more than $9,000,000.

In short, if the law requiring that all property shall be assessed at its true and full value were rigidly enforced it would inevitably result in a large and needless increase in taxes; in a great and uncalled for increase in salaries; most likely in a great increase in municipal indebtedness; and in a general and unwarranted demoralization of the entire revenue system.[1]

These objections to sudden 100 per cent assessment are not insuperable, nor are they equally valid in all states; but in some degree they are present everywhere. In all states appropriate amendments of the laws would overcome the maladjustments. Such amendments would, however, raise many questions, for the settlement of which new bases would have to be found. The legislature hesitates to raise questions which may be difficult to settle. The alternative resorted to in a number of states is the legalization and continuation of current practices through the establishment of fractional assessment ratios, or by other means. In general, the effect is to leave conditions unchanged and to prevent fundamental reform.

Similarly, the interrelationships of the tax rates and the diverse levy limits, bond limits, salary schedules, and other fiscal measures have tended to prevent the adoption of auxiliary sources of revenue, which might in time be expected to relieve property and to achieve a more suitable apportionment of the tax burden. It is, for example, a familiar fact that perhaps the most effective argument against the adoption of state income taxes has been the allegation that any such tax would be merely "another tax"; that the local levies would continue as they were. And it must be admitted that, at least temporarily, some such increase in the total tax revenue will occur unless precautions, perhaps in the tax rate limits, are taken. Such readjustment opens up questions not easy to settle; and the legislature avoids them when it can do so. The experience of Wisconsin and Kansas proves that neither the introduction of an income tax nor the shift to a higher assessment ratio need involve even temporarily higher taxes, if the proper precautions are taken. But these precautions are difficult to take.

[1] *Report*, 1912, pp. 105, 106.

E. DIFFICULTIES IN FINDING SUBSTITUTES

Moreover, no matter how fully the defects of the general property tax are understood, it is difficult to find any other tax or taxes that will be equally productive. The poll tax was overworked in colonial times. It has of course become increasingly unsuitable with our rapid economic development, and has properly been abandoned or relegated to a position of negligible fiscal importance. Not until Wisconsin in 1911 demonstrated the possibilities of state income taxes was this source of revenue deemed to be of practical importance. Thus the "faculty" element in the colonial composite tax base has been largely unexploited for state and local purposes until the present day. And, where such taxes have been considered, their adoption has been retarded by the largely erroneous but prevailing belief that their use by isolated states would be harmful to business. It is difficult to get forty-eight states to move simultaneously for income taxation, or for any other tax reform. Taxes on sales and business have been hampered by the restrictions upon interstate commerce which perhaps are inevitable in a federal form of government. Their deleterious effects upon business, if pressed for revenue comparable to that of the local property taxes, are much more plausible than those alleged against the income tax. Sales taxes or special taxes for special purposes, such as the taxes on motor fuels and motor vehicle license taxes, have provided some relief; and in some of the states, at least, these particular taxes have not yet attained their potential capacity for revenue. The cases where such special-purpose taxes are practical appear, however, to be few.

The general property tax, such as it is, has demonstrated its capacity for elasticity of yield. The simple expedient of raising or lowering the rate has sufficed to adjust the revenue to real or supposed needs. It has yielded enormous sums. Elasticity could be attained in similar automatic fashion, with other taxes, such as the income tax. The automatic elasticity of the general property tax has unfortunately rendered unnecessary a careful consideration of alternative elastic sources.

II. NEEDED MODIFICATIONS

The tenacity with which the general property tax persists in all the states for local though not for state purposes suggests that taxes on property ought to be continued. If state legislatures can find no suitable

alternatives, there appears to be nothing else to do. Fortunately, the thing they are driven to do is also the correct thing, with two important reservations. First, while taxes on property should be continued, the principle of the general property tax is unsound and should be abandoned wherever it still persists, as the preceding chapters should show; and the property tax systems of the future should differ in important respects from those now existing. Second, property taxes should be supplemented by other taxes.

A. CHANGES IN THE TAX BASE

The most important change required in order to make the property tax workable is a change in the tax base. The controlling principle should be that all wealth, or all tangible property, should be taxed unless good reason could be shown for exemption. It is not, however, necessary to tax everything tangible in order to tax equitably. It is probably necessary to tax all real property except that publicly owned, or otherwise exempt for good reasons. The presumption for the taxation of all real property uniformly is good until actual conditions demonstrate the contrary.

As for productive personal property, this would also hold true, unless there should be some species which in practice could not be listed and appraised with approximate completeness. It would be better then to exempt them than to seek vainly to assess what cannot be reached.[1] It is not to be anticipated that the administration that should be provided could not assess effectively practically all productive tangible personal property. But should the contrary be true, and some species prove to be improperly assessed, no principle will be violated by exempting them. The incidence of the tax will, whether all or only some producers' capital is taxed, be on owners of capital in general, after a necessary adjustment of prices of things taxed and not taxed. Nor is any principle violated by classifying producers' capital for differential taxation if actual conditions should demonstrate the expediency of such a move.

Turning to consumptive tangible personalty, we are led to the conclusion that expediency and justice both dictate its exemption. Such

[1] Such is evidently the intention of the new (1931) classification system of Ohio (cf. chapter vii, Table 38, *supra*).

tangibles are not in practice reached with a satisfactory degree of completeness. Their assessment is always annoying and therefore ineffective. But, if certain species of consumptive, personal tangibles are to be taxed, the list should be limited to a few conspicuous classes, which are within reach of the assessors and which can be taxed equally and uniformly to all taxpayers. In any case there should be no deductions for debts.

As for intangibles, they should not be taxed as general property. If exceptions were to be made for certain nonrepresentative intangibles, such as corporate excess, patents, copyrights, the exceptions could be justified, if the practical difficulties in reaching such property were not so great as to make the attempt doubtfully worth while. Representative property, as shown by practical experience during three centuries of property taxation, cannot be assessed; the difficulties are increasing with the complexity of economic life. Justice dictates that they should not be taxed as general property, if discriminatory double taxation is to be avoided. The classified property tax, at best, is a compromise. Since, however, on the whole, a low-rate tax on intangibles yields at least as much revenue as would be secured from the general property tax, the low-rate tax is far more desirable on grounds of justice, since it does not seriously burden anyone and greatly increases the number of contributors, thus apportioning the burden much more equitably. The general property tax on representative intangibles is indefensible from any point of view. It is not inconceivable, however, that a state tax system might be so modified as to warrant a light or moderate, perhaps progressive, tax on net assets. An example of such a tax is the national German *Vermögenssteuer*, which is in addition to state taxes on land and houses.

The practical difficulty that will doubtless be met in many of the states in changing the tax base as proposed, particularly with respect to the exemption of intangibles, is that it seems to exempt the rich man whose holdings are in the form of intangibles, and taxes the poor farmer and homeowner, in short every owner of tangible property. But that is not in effect what occurs. It is to be remembered that some poor persons hold some intangibles, on which they are more likely to be taxed than are the rich, while some rich persons hold tangible property. And it is not proposed to exempt the rich investor, but merely not to

tax his securities as property; this is nowhere being done in practice and cannot be done. A supplementary advantage of the tax base as proposed is that the change would greatly simplify administration.

The change in the tax base should be accompanied by a criterion of value, or a substitute for value, where market value is not available. Where sales are few and nonrepresentative, the market value criterion must be a constructive value. Such a value basis, when developed by technicians, should be accepted as of equal validity with the market value.

On such a basis the property tax would become a tax *in rem*, on things as such, or on possessions. If it retained the name of a property tax, as it probably would, the term would have a different connotation from that it now has in law. But the basis is substantially the basis recommended for the "Model System of State and Local Taxation," by a committee reporting to the Twelfth National Tax Conference in 1919,[1] as follows:

> The second part of the system proposed by the committee is a tax upon tangible property, levied exclusively at the place where such property is located. By this means the several states will be able to satisfy adequately and fairly their just claims in respect of property enjoying protection and other benefits under their laws. . . . . Concerning this tax, it will be observed, we recommend that it be confined to tangible property and that intangible property of all descriptions be exempt from taxation as property. . . . . Whether tangible property should be taxed at a uniform rate or should be classified for taxation is a question that requires careful consideration and one concerning which there may be difference of opinion. It is the judgment of the committee, however, that a distinction should be drawn at least between real estate and tangible personal property, and that the latter should receive a separate classification. The reasons for this conclusion are, in the first place, the difficulty of inforcing strictly a tax upon many kinds of tangible personal property at the high rates of taxation which under present conditions our states commonly impose and must continue to levy upon real estate. . . . . Where the general rate of taxation is low, the difficulties attending the taxation of tangible personal property may be less serious; but at the commonly prevailing rates of $1.50 or $2 per $100, we believe that strict enforcement of a tax upon tangible personalty will continue to be found

[1] *Proceedings*, XII, 426–70. Reprinted in C. J. Bullock, *Selected Readings in Public Finance*, pp. 491–532.

most difficult and even impossible. . . . . In our opinion, the rate of taxation upon tangible personal property should not exceed $1 per $100. At that rate it is probable that, with suitable provision for enforcement, the tax will yield not less than is now collected at the higher rates usually applied to property in general, and may even yield something more. Experience may show that even a lower rate, perhaps $0.80 per $100, may be preferable; only experience can determine this point.

It is evident that the committee had in mind a much more flexible system than now prevails, both with respect to the tax base and the tax rate. Reference to earlier chapters of this volume will disclose suggestions as to some of the forms the greater flexibility might assume. In general, the maximum rate must apply to real estate. The rate for tangible personal property considered by the committee is the optimum rate, the rate that will yield the maximum revenue. The lower rate on tangible personalty, preferably a uniform rate throughout the state, can be defended also on grounds of equality and justice toward the taxpayers. Possibly, also, it might be desirable to rely more heavily on the socially created values of bare land. Possibly, also, a differentially low rate might be applied to improvements. Consumers goods might be exempted or accorded a still lower rate. Moreover, not all classes of personalty and improvements might, expediently, take the same rate. In fact, one can set up a structure as flexible and variable as one pleases. Both flexibility and variability are, however, limited by the requirement that the tax system shall be as simple as possible. In any event, the prevailing idea of property as a homogeneous mass will doubtless long prevent any elaborate classification of tangible personalty. But it is of capital importance that intangibles shall be exempt from taxation as general property.

The property tax as thus based on the capital value[1] of the tangibles selected as tax bearers will not, of course, bear any necessary relation to the income from the taxed property. For reasons set forth at length in previous chapters, no ad valorem tax can bear any reasonable relation to this income. And the property tax does not touch income from other sources at all. Such relationship as should exist between all taxes and all income must be effected through supplementary taxes, chiefly

[1] Or some equivalent accepted base.

on income directly. The property tax should be "considered in its true light as a cost" of holding the property taxed.[1]

B. POLITICAL AND ADMINISTRATIVE CHANGES

Throughout this entire volume has run the thought that constitutional restrictions upon the legislature should be limited to a minimum. Certain other changes would measurably serve to make taxes on property more workable, more equitable. The segregation of sources of state and local revenue is not one of these changes. For the state owes a duty toward the local units in the way of supervision and control of local finances, including the assessment of property for taxation. It is desirable that the local units shall be allowed all the freedom and initiative consistent with effective administration.[2] But the widening of the areas affected by the locally performed public services has necessitated centralization of control of local property taxes, as well as of these functions themselves. The state may, for example, assume the cost of construction and maintenance of highways, or it may control local educational services through state aid. It may prescribe uniform rates for certain classes of property, such as intangibles, so long as the pretense of taxing them is continued; or it may itself administer the tax and distribute it to the localities, as is done with the tax on railroad property in Michigan or the income tax in Delaware.

While an extended discussion of local governmental units is not in order here, it is proper to say that the extreme decentralization of local functions, as exemplified in the local school districts, has aggravated the inequalities of property taxation by bringing more sharply into relief the discrepancies that exist between locally performed public services and the taxable property valuations on which they are supported. Unquestionably, many local taxing districts are uneconomically small, and, for that reason, not only produce wide variations in tax rates, but also suffer from excessive taxes resulting from uneconomical organization. For reasons of effective administration, the territorial assessment unit should be no smaller than the county.

[1] Mabel Newcomer, "The General Property Tax and the Farmer," *Journal of Political Economy*, XXXVIII (1930), 66.

[2] Cf. Mabel Newcomer, "Tendencies in State and Local Finances," *Political Science Quarterly*, XLIII (1928), 1–31.

The assessors and the tax commissioners[1] should in most of the states be better paid and better qualified than at present, and allowed adequate funds to provide expert and clerical help, as well as office equipment. Wherever possible the assessors should be appointive for long terms; this is equally true of the members of the state tax commission. The most important requirement is that these officials shall accumulate and use adequate information to serve as the basis of valuations in order that the assessment may be removed from the realm of guess work which has characterized local assessments and also some central assessments. The original assessment is the pivotal part in the entire procedure of the property tax assessment.

C. SUPPLEMENTARY TAXES

If the tax burden is to rest equitably upon all the citizens of a state, it is necessary that most of the states resort to supplementary taxes to a greater extent than they are doing now or appear to be disposed to do in the near future. For property is not the sole measure or evidence of tax-paying capacity. An increasing share of the national income is derived from processes not directly or appreciably connected with property. The recipients of this part of the national income possess tax-paying capacity, and for this and other reasons they should pay more than they now do toward the support of state and local governments.[2] Such supplementary taxes are important because by reducing the amounts that must be raised from property taxes they reduce more than proportionately the inequalities and other difficulties of property taxation. Whether these other sources of revenue shall be in the form of taxes on income, on sales, or on some other basis, is another story.

[1] For a statement of minimum powers of the state administrative tax commission, cf. "Report on a Model System of State and Local Taxation," *op. cit.*, pp. 463–65.

[2] Cf. *Ibid.*, pp. 426–70. The other two principal parts of the recommended model state and local tax system were (1) a personal income tax, and (2) a business income tax.

BIBLIOGRAPHY

To conserve space, many of the sources consulted have necessarily been omitted. The usual abbreviations have been employed, and the citations have been limited to the exact title. The "Columbia University Studies in History, Economics, and Public Law" are referred to as "Columbia Studies." The "Johns Hopkins University Studies in the Social Sciences" are referred to, similarly, as "J. H. Studies." Other abbreviations are believed to need no further explanation. As described below, the publications of the National Tax Association have not been given in detail, this work having been done by Professor and Mrs. Blakey. The classification, it is believed, is reasonably self-explanatory.

I. PUBLICATIONS OF THE NATIONAL TAX ASSOCIATION

1. *Proceedings* of the Annual Conferences.
   This publication contains much valuable material; is available annually, except for the year 1918, since 1907. It is indexed by Blakey, *infra.*
2. *Bulletin* of the National Tax Association has been available since 1915. It is similarly indexed by Blakey, *infra.*
3. Blakey, R. G., and Blakey, G. C. *National Tax Association Digest and Index, 1906–1925.* Digest covers material in *Proceedings* of the Conferences of the National Tax Association and the *Bulletin* of the National Tax Association.

II. BOOKS AND GENERAL WORKS

Adams, H. C. *The Science of Finance.* 1898.

Adams, R. C. *Taxation in Nevada.* 1918.

Aereboe, Friederich. *Die Taxation von Landgütern und Grundstücken.* 1912.

Atkinson, R. C. *The Effects of Tax Limitation upon Local Finance in Ohio.* 1923.

Babcock, F. M. *The Appraisal of Real Estate.* 1924.

Beman, L. T. *Tax Exempt Securities.* The "Legislative Reference Shelf," Vol. III No. 1 (1925).

Bernard, H. D. *Principles and Practices of Real Estate Valuation.* 1913.

Bidwell, F. D. *Taxation in New York State.* 1918.

Bishop, W. L. *An Economic Analysis of the Constitutional Restrictions upon Municipal Indebtedness in Illinois.* 1928.

Blakey, Roy G. *Report on Taxation in West Virginia.* 1930.

Bogart, E. L. *Financial History of Ohio.* "Univ. of Ill. Studies," Vol. I (1912).

Bond, B. W. *The Quit-Rent System in American Colonies.* 1919.
Boyle, J. E. *Financial History of Kansas.* "Bul. Univ. of Wis.," No. 247 (1908).
Brannen, C. O. *Taxation in Tennessee.* 1920.
Brindley, J. H. *History of Taxation in Iowa.* Iowa Historical Society, 2 vols., 1911.
Brown, H. G. *Economics of Taxation.* 1924.
Bullock, C. J. *Historical Sketch of the Finances and Financial Policy of Massachusetts from 1780 to 1905.* "Pub. of Amer. Econ. Assoc.," 3d Ser., Vol. VIII (1907).
———. *Selected Readings in Public Finance.* 2d ed., 1920.
Cannan, E. *History of Local Rates in England.* 1912.
Cassel, Gustav. *The Theory of Social Economy.* 1924.
Chandler, H. A. E. *Equalization of the Tax Burden in New York State.* 1916.
Chapman, J. W. *State Tax Commissions in the United States.* "J. H. Studies," 1897.
Comstock, A. P. *State Taxation of Personal Incomes.* "Columbia Studies," Vol. CI (1921).
———. *Taxation in the Modern State.* 1929.
Compton, R. T. *Fiscal Problems of Rural Decline.* Special Report of the New York Tax Commission, No. 2 (1929).
Cooley, T. M. *A Treatise on Taxation.* 1886.
Custis, V. *State Tax System of Washington.* "Pub. of Univ. of Wash.," 1916.
Dana, R. H. *Double Taxation in Massachusetts.* Auspices of Massachusetts Anti-Double-Taxation League, Boston, 1895.
Dorau, H. B., and Hinman, A. G. *Urban Land Economics.* 1928.
Douglas, C. H. P. *Financial History of Massachusetts.* "Columbia Studies," Vol. I (1892).
Dowell, Stephen. *A History of Taxation and Taxes in England.* 1884.
Eastman, Frank M. *Taxation for State Purposes in Pennsylvania,* 1898.
———. *The Law of Taxation in Pennsylvania.* 1909.
Ely, R. T. *Taxation in American States and Cities.* New York, 1888.
Estcourt, R. M. *The Conflict of Tax Laws,* "Univ. of Calif. Pub. in Econ.," Vol. IV, No. 3 (1918).
Evans, M. G. *The Mississippi Tax System.* 1924.
Evans, N. W. *The Assessment of Personal Property.* 1904.
Fairlie, J. A. *Centralization of Administration in New York.* "Columbia Studies," Vol. IX (1898).
———. *A Report on the Taxation and Revenue System of Illinois.* 1910.
———. *A Report on Revenue and Finance Administration.* Prepared for the Efficiency and Economy Committee, Springfield, 1914.

Fankhauser, W. C. *A Financial History of California*. "Univ. of Calif. Pub. in Econ.," Vol. III (1913).

Flippin, P. S. *The Financial Administration of the Colony of Virginia*. "J. H. Studies," Ser. XXXIII, No. 2 (1915).

Friedman, H. C. *The Taxation of Corporations in Massachusetts*. "Columbia Studies," Vol. XXVII (1907).

Goodnow, F. J. *Cases on Taxation*. Chicago, 1905.

Goschen, G. J. *Reports and Speeches on Local Taxation* (England). 1872.

Gould, C. P. *The Land Rent System in Maryland, 1720–1765*. "J. H. Studies," Ser. XXI, No. 1 (1913).

Grimes, J. A., and Craigue, W. H. *Principles of Valuation*. 1928.

Haig, R. M. *A History of the General Property Tax in Illinois*. "Univ. of Ill. Studies," Vol. III (1914).

______. *The Exemption of Improvements from Taxation in Canada and the United States*. 1915.

The Work of the Colorado Tax Commission. 1916.

Hanna, H. S. *A Financial History of Maryland, 1789–1848*. "J. H. Studies," Vol. XXV (1907).

Hardy, C. O. *Tax Exempt Securities and the Surtax*. 1926.

Hedrick, W. O. *History of Railroad Taxation in Michigan*. Lansing, 1912.

Heer, Clarence. *The Post-War Expansion of State Expenditures*. Published by the National Institute of Public Administration, 1926.

Hollander, J. H. *Financial History of Baltimore*. 1899.

______ (ed.). *Studies in State Taxation*. "J. H. Studies," 1900.

Huang, Hsien-Ju. *State Taxation of Railways in the United States*. "Columbia Studies," 1928.

Huntington, C. W. *Enclaves of Economic Rent* (annual 1920 to date).

Huse, C. P. *The Financial History of Boston*. "Har. Econ. Studies," Vol. XV (1916).

Jones, F. R. *History of Taxation in Connecticut*. "J. H. Studies," Vol. XIV (1896).

Judson, F. N. *Taxation in Missouri*. Columbia, 1900.

______. *On Taxation: The Taxing Power, State and Federal, in the United States*. St. Louis, 1903.

Kinsman, D. O. *The Income Tax in the Commonwealths of the United States*. "Pub. Amer. Econ. Assoc.," 3d ser. Vol. IV (1903).

Leland, S. E. *Taxation in Kentucky*. 1920.

______. *The Classified Property Tax*. 1928.

Levine, Louis. *The Taxation of Mines in Montana*. 1919.

Lutz, H. L. *The State Tax Commission*. "Har. Econ. Studies," Vol. XVII (1918).

Lutz, H. L. *The Classification of Property for Taxation.* 1919.

______. *The Georgia System of Revenue, Its Problems and Their Remedies.* Report to the Governor, 1930.

MacFadden, Mrs. E. N. *The Next Question* (exemption from taxation). 1927.

Manning, H. E. *Assessment and Rating, Being the Law of Municipal Taxation in Canada.* 1928.

Means, D. M. *The Methods of Taxation.* 1911.

Mellon, A. W. *Taxation: The People's Business.* 1924.

Merriam, C. E. *Municipal Revenues of Chicago.* 1906.

Miller, E. T. *A Financial History of Texas.* 1916.

Moll, Bruno. *Zur Geschichte der Englischen und Amerikanischen Vermögenssteuern.* 1912.

______. *Probleme der Finanzwissenschaft.* 1924.

Moore, J. R. *Taxation of Corporations in Illinois Other than Railroads since 1872.* "Univ. of Ill. Studies," Vol. II (1913).

Morrison, Henry C. *School Revenue.* 1930.

______. *The Financing of Public Schools in the State of Illinois.* Educational Finance Inquiry Commission, 1924.

Mort, Paul R. *The Measurement of Educational Need.* 1924.

______. *State Support for Public Schools.* 1926.

National Industrial Conference Board. *Taxation and National Income.* 1922.

______. *Tax Burdens and Tax Exemptions.* 1923.

______. *The Tax Problem in Wisconsin.* 1924.

______. *Tax Burdens and Public Expenditures.* 1925.

______. *The Tax Problem in West Virginia.* 1925.

______. *The Fiscal Problem in Delaware.* 1927.

______. *The Fiscal Problem in Illinois.* 1927.

______. *The Fiscal Problem in New York.* 1928.

______. *General Sales or Turnover Taxation.* 1929.

______. *State Income Taxes.* 2 vols., 1930.

______. *The Fiscal Problem in Missouri.* 1930.

______. *State and Local Taxation of Property.* 1930.

______. *Cost of Government in the United States, 1926–27, 1927–28.* Series.

Newcomer, M. *Separation of State and Local Revenues in the United States.* "Columbia Studies," Vol. LXXVII (1917).

Nichols, Philip. *Taxation in Massachusetts.* 1922.

Parker, Coralie. *The History of Taxation in North Carolina during the Colonial Period.* 1928.

Pigou, A. C. *A Study in Public Finance.* 1928.

Pollock, W. W., and Scholz, K. W. H. *The Science and Practice of Urban Land Valuation*. 1926.

Prouty, W. L., Collins, Clem, and Prouty, F. H. *Appraisers' and Assessors' Manual*. 1930.

Rawles, W. A. *Centralizing Tendencies in the Administration of Indiana*. "Columbia Studies," Vol. XVII (1903).

Reeves, Floyd W. *The Political Unit of Public School Finance in Illinois*. Educational Finance Inquiry Commission, 1924.

Ripley, W. Z. *The Financial History of Virginia*. "Columbia Studies," Vol. IV (1893).

Robinson, M. H. *A History of Taxation in New Hampshire*. "Pub. Amer. Econ. Assoc.," Vol. III, 3d ser. (1902).

Shaffner, M. A. *The Territorial Tax Legislation of Michigan*. 1902.

Schultz, W. J. *Who Ultimately Pays Taxes?* Prize Essay in the Sixth Alvin T. Simonds Economic Contest, 1928.

·Schwab, J. C. *History of the New York General Property Tax*. "Pub. Amer. Econ. Assoc.," Vol. V (1890).

Seligman, E. R. A. *The Shifting and Incidence of Taxation*. 3d ed., 1911.

———. *Essays in Taxation*. 9th ed., 1921.

———. *Studies in Public Finance*. 1925.

———. *Double Taxation and International Fiscal Cooperation*. 1928.

Simpson, H. D. *Tax Racket and Tax Reform in Chicago*. 1930.

Snider, G. E. *The Taxation of Gross Receipts in Wisconsin*. "Pub. Amer. Econ. Assoc.," Vol. VII, 3d ser. (1906).

Sowers, D. C. *The Financial History of New York State*. "Columbia Studies," Vol. LVII (1914).

Street, A. B. *A Digest of Taxation in the United States*. Albany, 1863.

Thorpe, F. N. *The Federal and State Constitutions, Colonial Charters and Other Organic Laws*. 1906.

Turner, S. H. *History of Local Taxation in Scotland*. 1908.

Upson, L. D. *Sources of Municipal Revenue in Illinois*. "Univ. of Ill. Studies," Vol. I (1912).

Vineberg, S. *Provincial and Local Taxation in Canada*. "Columbia Studies," Vol. LII (1912).

Viner, J. "Revenue and Taxation in Kentucky" (Part II, pp. 221–342, of *Government of Kentucky*. Auspices of Efficiency Commission, 1924).

Walker, Francis. *Double Taxation in the United States*. "Columbia Studies," Vol. V (1895).

Walradt, H. F. *The Financial History of Connecticut from 1789 to 1861*. 1912.

———. *Who Ultimately Pays Taxes?* Prize Essay in the Sixth Alvin T. Simonds Economic Contest, 1928.

Wells, D. A. *Theory and Practice of Taxation.* New York, 1900.
Weston, S. F. *Principles of Justice in Taxation.* "Columbia Studies," Vol. XVII (1903).
Williamson, C. C. *The Finances of Cleveland.* "Columbia Studies," Vol. XXV (1907).
Wolcott, O. "*Report on Direct Taxes.*" Submitted to Congress on April 4, 1796. *American State Papers on Finance,* Vol. I.
Wood, F. A. *History of Taxation in Vermont.* "Columbia Studies," Vol. IV (1894).
——. *The Finances of Vermont.* "Columbia Studies," Vol. LII (1913).
Young, L. E. *Mine Taxation in the United States,* "Univ. of Ill. Studies," Vol. V (1916).
Young, A. N. *Single Tax Movement in the United States.* 1916.
Zangerle, J. A. *Principles of Real Estate Appraising.* 1924.

III. ARTICLES, PAMPHLETS, AND SPECIAL STUDIES

Adams, H. C. "Recent Changes in the Taxing Laws of Michigan," *Quar. Jour. Econ.*, XVI, 116 ff.
Adams, T. S. "Tax Exemption through Tax Capitalization: A Fallacy," *Amer. Econ. Rev.*, VI (1916), 272–87.
——. "Basic Principles Which Should Guide in Tax Legislation," *Tax Mag.*, January, 1931.
——. "Wisconsin Tax Decision of 1906," *Quar. Jour. Econ.*, XXI, 492 ff.
——. "The Valuation of Railway Property for Taxation," *Jour. Pol. Econ.*, XXIII, 1 ff.
——. "Mortgage Taxation in Wisconsin," *Quar. Jour. Econ.*, XXII (1907), 1 ff.
——. "Separation of State and Local Revenues," *Jour. Pol. Econ.*, XVI (1908), 1 ff.
——. "The Wisconsin Tax Commission Valuation of Real Estate," *Papers and Proceedings of Minnesota Academy of Social Science*, I, 70–104.
——. *Taxation in Maryland.* "J. H. Studies," 1900.
——. "Ideals and Idealism in Taxation," *Amer. Econ. Rev.*, XVIII, No. 1 (1928), 1–8.
Allen, R. C. "Michigan Iron-Ore Reserves; Methods of Appraisal for Taxation," *Mining and Engineering World*, September 12, 1914.
Andrews, C. A. "The Taxation of Corporate Franchises in Massachusetts," *Yale Rev.*, XIX, 357 ff.
Angell, E. A. "The Tax Inquisitor System in Ohio," *Yale Rev.*, V, 350 ff.
Asplund, R. F. *Taxation Problems of the West.* New Mexico Tax Bul., March, 1928.

Bachelder, M. M. *What Can Be Accomplished under Present Constitutional Limitations?* "Ind. Univ. Bul.," XII (1915), 158–68.

Barnett, G. E. *Taxation of North Carolina.* "J. H. Studies," 1900.

Benton, E. J. *Taxation in Kansas.* "J. H. Studies," 1900.

Blakey, Roy G. *State Income Taxes.* Published by the League of Minnesota Municipalities, No. 31 (1930).

Blough, J. Roy. *The Geographical Problem in Wisconsin.* Wisconsin Tax Commission Bul., No. 39 (1930).

Bogart, E. L. "Recent Tax Reforms in Ohio," *Amer. Econ. Rev.*, I (1911), 505–18.

Brannen, C. O. *The Farm Tax Problem in Arkansas.* Ark. Agric. Exp. Sta. Bul., No. 223 (1928).

———. "Taxes in Relation to Earnings of Farm Real Estate," *Annals Amer. Acad. Pol. and Soc. Sci.*, CXVII (1925), 40–44.

Brannen, C. O., and Grover, S. D. *Taxation of Farms in Missouri.* Mo. Exp. Sta. Bul., No. 93, 1926.

Brannen, C. O. and Sanders, J. T. *Taxation of Rented Farms, 1919.* U.S. Dept. Agric., Bur. Agric. Econ., 1925.

Brindley, John E. "Five-Mill Tax on Moneys and Credits in Iowa," *Quar. Jour. Econ.*, XXX (1916), 588–95.

———. *Tax Administration in Iowa.* "Iowa Applied History Series" (published by State Historical Society of Iowa, 1912).

Brindley, J. E., and Zorbaugh, G. S. M. *The Tax System of Iowa.* Iowa Agric. Col. Ext. Bul., No. 150 (1929).

Brown, H. G. "Should Bare-Land Values Be Taxed More Heavily?" *Jour. Land and Pub. Util. Econ.*, IV (1928), 373–92.

———. "Taxing Rental *v.* Taxing Salable Value," *Jour. Pol. Econ.*, XXXVI (1928), 164–68.

———. "Is a Tax on Site Values Never Shifted?" *Jour. Pol. Econ.*, XXXII (1924), 375–82.

Brough, C. H. *Taxation in Mississippi.* "J. H. Studies," 1900.

Buechel, F. A. *Trend of Taxes on Agricultural Land in Texas and the Distribution of the Farmer's Tax Dollar.* Tex. Exper. Sta. Bul., No. 334, 1925.

Bullock, C. J. "Increase of Taxes on Real Estate in American Cities," *Har. Bus. Rev.*, VI (1928), 129–42.

———. "The Increase of Taxes on City Real Extate," *Har. Bus. Rev.*, January, 1928. Reprinted from *Buildings and Building Management*, April 29, 1927.

———. "The Separation of State and Local Revenues," *Quar. Jour. Econ.*, XXIV, 437–58.

Bullock, C. J. "The Taxation of Property and Income in Massachusetts," *Quar. Jour. Econ.*, XXXI, 1 ff.

———. "The Taxation of Corporations in Massachusetts," *Quar. Jour. Econ.*, XXI, 192 ff.

Bureau of Railway Economics. *A Brief Survey of Railway Taxation.* "Special Series," No. 54 (1930).

Carver, T. N. *The Tax Inquisitor System in Ohio*, "Amer. Econ. Assoc., Econ. Studies," III (1916), 162–212.

———. "The Minimum Sacrifice Theory of Taxation," *Pol. Sci. Quar.*, XIX (1904), 66–79.

Chambers, C. R. *Relation of Land Income to Land Value.* U.S. Dept. Agric. Bul., No. 1224 (1924).

Chatters, Carl H. *The Enforcement of Real Estate Liens.* Municipal Administration Service, No. 10 (1928).

Clarke, G. B. "The Assessment System of Minnesota in Its Relation to Equality of Taxation," *Jour. Farm Econ.*, XII (1930), 573–87.

Cole, S. T. *Enforcement of Delinquent Taxes.* N.Y. State Bar Assoc. Bul., May, 1930.

Committee on State Taxation of American Bankers Association. *Survey of Bank Taxation in the United States*, 1929.

Commons, J. R. "Taxation in Chicago and Philadelphia," *Jour. Pol. Econ.*, III (1894–95), 434 ff.

———. "A Progressive Tax on Bare-Land Values," *Pol. Sci. Quar.*, XXXVII (1922), 41–68.

Compton, R. Theodore. "The Taxation of Intangible Property," *Tax Magazine*, April, 1931, pp. 136–40, 154–58.

Connelly, W. F. "A Plan for the Taxation of Property in the City of Bridgeport," *State Document No. 216* (1926).

Cooke, Thornton. "The Next Step in Bank Taxation," *Amer. Bankers Assoc. Jour.*, September, 1929.

———. "The Way Out in Taxation," *Amer. Bankers Assoc. Jour.*, November, 1927.

———."The Taxation of Farms and Banks," *Amer. Bankers Assoc. Jour.*, April. 1927, pp. 714 ff.

Coombs, W., Moorhouse, L. A., and Seeley, B. D. *Some Colorado Tax Problems with Especial Reference to Their Effect on Agriculture.* Colo. Exper. Sta. Bul., No. 346 (1928).

Coombs, Whitney. *Taxation of Farm Property.* U.S. Dept. of Agric. Tech. Bul., No. 172 (1930).

Crossen, E. P., *Taxation and Public Finance in South Dakota.* So. Dak. Exper. Sta. Bul., No. 232 (1928).

Curran, H. H. "One Hundred Million Dollars in New Housing under Tax Exemption," *Nat. Mun. Rev.*, X (1921), 502.

Custis, V. "The Taxation of Intangibles in Washington," *Quar. Jour. Econ.*, XXIII, 718 ff.

———. "Tax Reform in Washington: The Exemption of Intangibles," *Quar. Jour. Econ.*, XXIII, 718–26.

Daniels, W. M. "Taxation of Railroad and Canal Property in New Jersey," *Quar. Jour. Econ.*, XX, 617.

Daniels, Winthrop. "Taxation of Railways in New Jersey," *Quar. Jour. Econ.*, XX (1906), 617–22.

Daugherty, M. M. *The Assessment and Equalization of Real Property in Delaware.* Del. Exper. St. Bul., No. 159 (1928).

Daume, E. F. "A Critical Analysis of the Pittsburgh Graded Tax Law," *Annals of Amer. Acad. Pol. and Soc. Sci.*, CXLVIII (1930), 145–56.

Davenport, H. J. "Exhausted Farms and Exhausting Taxation," *Jour. Pol. Econ.*, XVII (1909), 354 ff.

———. "State Taxation of Interstate Commerce," *Pol. Sci. Quar.*, XXVI (1911), 643–58; XXVII (1912), 54–72.

Dennis, W. C. "Notes on Some Recent Supreme Court Cases Relating to the Situs of Intangible Personal Property for Purposes of Taxation," *Col. Law Rev.*, XV (1915), 377–98.

Dorau, H. B., and Alexander, M. "Some Measures and Measurements of Telephone Utility Taxation," *Jour. Land and Pub. Util. Econ.*, November, 1927.

Dressel, K. *Woodlot Taxation in Michigan.* Mich. Exper. Sta. Quar., Bul. No. 9 (1926).

Dressen, W. H. *A Study in the Ratios of Assessed Values to Sale Values of Real Property in Oregon.* Ore. Exper. Sta. Bul., No. 233 (1928).

Englund, Eric. "The Place of Taxation in a Constructive Agricultural Policy," *Jour. Farm Econ.*, VII (1925), 305–24.

———. *Assessment and Equalization of Real Estate in Kansas.* Kan. Exper. Sta. Bul., No. 232 (1924).

———. *Tax Revision in Kansas.* Kan. Exper. Sta. Bul., No. 234 (1924).

———. *The Trend of Real Estate Taxation in Kansas from 1910 to 1923.* Kan. Exper. Sta. Bul., No. 235 (1925).

Epstein, R. C., and Clark, F. M. *Trends in Buffalo Real Estate Assessments 1905–28.* "Univ. of Buffalo Studies in Business," 1929.

Evans, M. G. "The Burden of Property Taxation," *Amer. Econ. Rev.*, XX, No. 4 (1930), 685–86.

Fairchild, F. R. "State and Local Taxation of Banks," *Amer. Econ. Rev.*, VI, No. 4 (1916), 851–68.

Fairchild, F. R. "Taxation of Timber Lands," in *Senate Document 676*, II, 581–632 (Sixtieth Congress, second session).

Fairchild, F. R., and Walradt, Henry F. *Report of a Special Study of the Connecticut Tax System*," for Connecticut Chamber of Commerce, 1917.

Fairlie, John A. "Constitutional Provisions on Taxation," *Ill. Law Rev.*, II (1919), 321.

——. *Constitutional Provisions on Taxation*. Univ. Ill. Law Bul., December, 1929.

——. "Taxation in Illinois," *Amer. Econ. Rev.*, I (1911), 519–34.

Fetter, F. A. "Change in Mortgage Taxation in New York in 1906," *Quar. Jour. Econ.*, XX (1906), 613–16.

Garver, F. B. "Some Phases of Tax Reform in Illinois," *Jour. Pol. Econ.*, XIX (1911), 574–90.

George, Ralph E. "Real Estate Values in Pennsylvania," *Annals Amer. Acad. Pol. and Soc. Sci.*, LVIII (1915), 158–67.

Gilbert, J. H. "Tax Apportionment in Oregon," *Pol. Sci. Quar.*, XXVI, 271 ff.

Groves, H. M. *Ability To Pay and the Tax System in Dane County, Wisconsin*, Bulletin No. 2 of Bureau of Business and Economic Research, University of Wisconsin, 1930.

Halverton, H. H. "The Housing Plan of Valuation and Taxation," *Amer. City*, XXV (1921), 251–53, 335–37.

Hannan, W. E. *Property Exempt from Taxation in the Forty-Eight States*. Legislative Bulletin No. 42 (New York State Library, 1916).

Harrison, Shelby M. "The Disproportion of Taxation in Pittsburgh," *Annals Amer. Acad. Pol. and Soc. Sci.*, LVIII (1915), 168–82.

Haugen, N. "The Taxation of Money and Credits," *Minn. Acad. Soc. Sci.*, I (1908), 82–84, 138–68.

Hayes, H. G. "Land Rent and the Prices of Commodities," *Amer. Econ. Rev.*, XVII (1927), 219–29.

Henderson, Knox. "Recent Developments in the United States Supreme Court," *U. of P. Law Rev.*, February, 1930.

Hibbard, B. H., Hartman, W. A., and Sparhawk, W. N. *Use and Taxation of Land in Lincoln County*. Wis. Exper. Sta. Bul., No. 406.

Hinrichs, A. F. "Cost of Tax Exempt Securities," *Pol. Sci. Quar.*, XLI (1926), 271–80.

Hollander, J. A. "The Taxation of Intangible Wealth in Maryland," *Quar. Jour. Econ.*, XXII, 196 ff.

Howe, F. C. "Taxation of Quasi-Public Corporations in the State of Ohio and the Franchise Tax," *Annals Amer. Acad. Pol. and Soc. Sci.*, XIV (1899), 157–80.

Howe, S. T. "The Central Control of the Valuation of Taxable Subjects," *Annals Amer. Acad. Pol. and Soc. Sci.*, LVIII (1915), 112–30.

Hurd, Harvey B. *Some History of the Struggle in Illinois to Realize Equality in Taxation.* "Mich. Pol. Sci. Assoc. Pub.," IV, 265–78.

Illinois State Teachers Association. *Tax Reform in Illinois, A Discussion of the Sources of Income for the Support of Public Schools.* 1920.

James, A. E. "Taxation of Intangible Property," *Annals Amer. Acad. Pol. and Soc. Sci.*, LVIII (1915), 95–104.

———. *Measures of Relative Tax Burdens.* "Publications Amer. Sta. Assoc.," XV, 86–92.

Jensen, Jens P. *Survey of Colorado State Tax System.* Denver Chamber of Commerce, 1930.

———. *Tax Exemptions as a Means to Encouragement of Industry.* "Kan. Univ. Studies in Business," No. 10 (1929).

———. *The Kansas Tax on Intangibles.* "Kan. Univ. Studies in Business," No. 9 (1929).

Johnson, O. M. *Index Number of Farm Taxes in Ohio, 1881–1924.* Ohio Exp. Sta. Bul., November, 1925.

Johnson, S. *Permanent Tax Commission.* A Comparative Digest, 1910.

Joint Commission on Real Estate Valuation. "A Study of Assessment Methods and Results in Cook County," *Report I* (1927).

———. "A Study of Assessment Organization and Legislation in Its Application to Cook County," *Report II* (1928).

———. "A Study of the Present Financial Difficulties and Their Causes," *Report III*, (1929).

Judson, F. N. "Mortgage Taxation in Missouri," *Quar. Jour. Econ.*, XV, 287 ff.

Kendrick, M. S. *An Index of Farm Taxes in New York and Its Relation to Various Other Economic Factors.* Cornell Exper. Sta. Bul., No. 457 (1926).

———. *The Collection of General Property Taxes on Farm Property in the United States, with Emphasis on New York.* Cornell Exper. Sta. Bul., No. 469 (1927).

———. *Taxation in Connecticut.* Storrs Agric. Exper. Sta. Bul., No. 166 (1930).

———. "Public Expenditures: A Neglected Consideration in Tax Incidence Theory," *Amer. Econ. Rev.* (1930), XX, 226–30.

———. "A Comparison between Urban and Rural Taxation on Real Estate Values," *Annals Amer. Acad. Pol. and Soc. Sci.*, March, 1930.

———. "Seventy-two Years of Farm Taxes in New York," *Farm Econ.*, Vol. LII (1928).

Klemmedson, G. S. *Colorado Tax Problems*. Colo. Agric. Col. Bul., No. 290-A, 1930.

Lefler, George L. *Wisconsin Industry and the Wisconsin Tax System*. Bulletin No. 1 of the Bureau of Business and Economic Research of the University of Wisconsin, 1930.

Leland, S. E. *The Taxation of Intangibles in Kentucky*. Bureau of Business Research University of Kentucky, 1929.

———. "Separating the Sources of State and Local Revenue," *Nat. Real Estate*, February, 1929.

———. "The Breakdown of the Personal Property Tax in Illinois, and Its Solution," *Nat. Income Tax Mag.*, July, 1929, pp. 266–71, 288–89.

———. "Taxation of 'Productive' Personal Property," *Nat. Income Tax Mag.*, August, 1929, pp. 307–10, 326.

———. "Taxation of Intangible Property," *Nat. Income Tax Mag.*, September, 1929, pp. 346–51, 364–68.

———. "The Integration of Governments and Fiscal Systems," *Tax Magazine*, April, 1931, pp. 128–32, 153–54.

Lockhart, O. C. *The Operation of the New Tax System in Ohio*. Ind. Univ. Bul., Vol. XII, No. 15 (1915).

———. "Recent Developments in Taxation in Ohio," *Quar. Jour. Econ.*, XXIX (1915), 480–521.

———. "Taxation in Ohio," *Amer. Econ. Rev.*, II (1912), 729–30.

Long, Henry F. "Massachusetts Board of Tax Appeals," *Tax Magazine*, April, 1931, pp. 133–35, 153.

Lovejoy, P. J. "Theory and Practice of Land Classification," *Jour. Land and Pub. Util. Econ.*, I (1925) 161 ff.

Lowndes, C. L. B. "Tendencies in the Taxation of Intangibles," *Va. Law Rev.*, December, 1930.

Lutz, H. L. "The State Tax Commission and the Property Tax," *Annals Amer. Acad. Pol. and Soc. Sci.*, XCV, 276 ff.

———. "The Somers System of Realty Valuation," *Quar. Jour. Econ.*, XXV, 172 ff.

Manchester, Orson, L. *Taxation in Illinois*. Illinois State Teachers Association, 1922.

Martin, J. W. "Industrial Changes and Taxation Problems in the Southern States," *Annals Amer. Acad. Pol. and Soc. Sci.*, CLIII (1931), 224–37.

Mathews, Nathan, Jr. "Double Taxation of Mortgaged Real Estate," *Quar. Jour. Econ.*, IV (1890), 339–45.

Matthews, J. M. "Tax Administration in New Jersey," *Jour. Pol. Econ.*, XX, 176 ff.

McBain, H. L. "Taxation for Private Purposes," *Pol. Sci. Quar.*, XXIX (1914), 185 ff.

McCrea, R. C. "The Taxation of Personal Property in Pennsylvania," *Quar. Jour. Econ.*, XXI, 52 ff.

McCutchen, George. *Tax Reform in South Carolina.* Bul. Univ. So. Car., No. 104 (1922).

McDermott, A. M. "The Over-Taxation of Railroads," *Bankers Mag.*, March, 1928.

McMahon, T. C. "The Operation of the Graded Tax Law in Pittsburgh," *Annals Amer. Acad. Pol. and Soc. Sci.*, CXLVIII (1930), 139–44.

McNair, W. N. "Pittsburgh's Graded Tax Law and Its Results to Date." *Amer. City*, XXI (1919), 433.

McVey, Frank L. "A Rational System of Taxing Natural Resources," *Quar. Jour. Univ. No. Dak.*, 1911.

Merriam, C. E. "Substitutes for the Personal Property Tax in Cities," *Proceedings Nat. Conf. City Gov.*, 1907, pp. 276–79.

Miller, Clarence B. "The Taxation of Railroad Property." *Minn. Acad. Soc. Sci.*, I, No. 1 (1908), 131–37.

Miller, E. T. "Legal Limitations on Taxes and Debts," *Southwest Pol. and Soc. Sci. Quar.*, December, 1928.

Mills, W. H. *The Taxation System of South Carolina.* So. Car. Exper. Sta. Bul. No. 231, 1926.

Moore, H. R. *Index Numbers of Farm Taxes in Ohio.* Ohio Exper. Sta. Bul., No. 13, 1928.

Morris, J. E. *How High Taxes Affect Tangible Property.* Ind. Univ. Bul., XII, No. 15 (1915), 67–73.

Murphy, J. J., and Seligman, E. R. A. "Halving the Tax on Buildings: Pro and Con," *Survey*, XXXI (1914), 697, 702.

Mylander, C. H. "Taxation of Banks Compared with Competing Industries," *Amer. Bankers Assoc. Jour.*, October, 1928.

Nelson, R. W., and Mitchell, G. W. *Assessment of Real Estate in Iowa and Other Mid-western States.* "Iowa Univ. Studies in Business," 1930.

Newcomer, Mabel. "The General Property Tax and the Farmer," *Jour. Pol. Econ.*, XXXVIII (1930), 62–72.

——. "Tendencies in State and Local Finance and Their Relation to State and Local Functions," *Pol. Sci. Quar.*, XLIII (1928), 1–31.

Newton, R. W., and Hedrick, W. O. *Farm Real Estate Assessment Practices in Michigan.* Mich. Exper. Sta. Spec. Bul., No. 172 (1928).

——, and Benton, A. H. *Some Tax Problems of North Dakota Farmers.* No. Dak. Exper. Sta. Bul. No. 203 (1926).

Newton, R. W. *Taxes on Michigan Rented Farms, 1919–25*. Mich. Exp. Sta. Tech. Bul., No. 91 (1928).

Nichols, Philip. "State Taxation of National Banks," *Com. and Fin. Chron.*, October 20, 1928.

Ohio Chamber of Commerce. *Taxation Systems*. Research Division, April, 1930.

Olsen, N. A., Brannen, C. O., Cadisch, G. F., and Newton, R. W. "Farm Credit, Farm Insurance, and Farm Taxation," *U.S. Dept. Agric. Yearbook 1924*, pp. 185–284.

Osgood, Roy C. "Effect of Taxation on Securities," *Annals Amer. Acad. Pol. and Soc. Sci.*, LXXXVIII, 156–68.

Owen, Horace M. *A Separation of State and Local Finances*, "Mich. Pol. Sci. Assn. Pub.," IV, 248–64.

Page, Thomas W. "The Movement for Tax Reform in Virginia," *Jour. Pol. Econ.*, XXIV (1916), 738 ff.

Pastoriza, J. J. "The Houston Plan of Taxation," *Annals Amer. Acad. Pol. and Soc. Sci.*, LVIII (1916), 194.

Paton, Thomas B. "The Bank Tax Situation," *Amer. Bankers Assoc. Jour.*, September, 1928.

———. "New Threat to Barrier against Overtaxing National Bank Shares," *Amer. Bankers Assoc. Jour.*, December, 1927, pp. 435 ff.

Pearson, C. C. "The Present Status of Tax Reform in North Carolina," *So. Atl. Quar.*, 1919.

Plehn, C. C. "An Assessment Roll for the Income Tax," *Jour. Pol. Econ.*, XXVII (December, 1919), 875–88.

———. "The Taxation of Franchises," *Nat. Mun. Rev.*, I, No. 3 (1912), 337–55.

———. "The Taxation of Mortgages in California," *Yale Rev.* VII, 31 ff.

———. "Two Experiments in the Taxation of Bank Franchises," *Rev. of Rev.*, June, 1904, pp. 718–19.

———. *The General Property Tax in California*. "Publication of the Amer. Econ. Assoc.," Vol. II (1897).

———. "Taxation of National Banks," *Calif. Law Rev.*, May, 1929.

———. "A Study of the Incidence of an Increment Value Land Tax," *Quar. Jour. Econ.*, XXXII, No. 3, 487–506.

Pleydell, A. C. "Tax Measures of 1912," *Amer. Pol. Sci. Rev.*, VI (1912), 578–86.

———. "Tax Legislation, 1911." *Amer. Pol. Sci. Rev.*, VI (1912), 74–83.

Polak, E. "Reduction of Tax on Buildings in the City of New York." *Annals Amer. Acad. Pol. and Soc. Sci.*, LVIII (1915), 183–88.

Polleys, Thomas A. "Real Estate Valuations," *Minn. Acad. Soc. Sci.*, I, No. 1 (1908), 59–78.

Pollock, W. W. "A Scientific Approach to Real Estate Valuation," *Annals of Amer. Acad. Pol. and Soc. Sci.*, CXLVIII (1930), 97–105.

Post, A. E. "Taxation in Philadelphia," *Nat. Mun. Rev.*, II (1913), 57–67.

Pratt, Hazen. "The Assessment of Real Estate and Buildings in Rochester, New York," *Nat. Mun. Rev.*, XVIII (1929), 87–93.

Purdy, Lawson. "The Assessment of Real Estate," *Nat. Mun. Rev.* (supplement), Vol. VIII, No. 7 (1919).

———. "Taxation of Personalty and City Conditions," *Mun. Affairs*, III (1899), 299–327.

———. "The Assessment of Real Estate in the City of New York," *Report of the Department of Taxes and Assessments*, 1908, pp. 83–89.

Raper, C. L. "North Carolina's Taxation Problem and Its Solution," *So. Atl. Quar.*, XIV (1915), 1–14.

Reed, Thomas H. "Taxation in the Proposed Metropolitan Government of Pittsburgh," *Nat. Mun. Rev.*, XVIII (1929), 385–90.

Reeves, C. E. *The Appraisal of Urban Land and Buildings*. Municipal Administration Service," No. 11.

Reiling, H. T. "Use of a State Income Tax," *Nat. Income Tax Mag.*, June, 1930, pp. 221–24.

Rightor, C. E. "A Commentary upon the Comparative Tax Rates of Thirty-Two Cities, 1922," *Nat. Mun. Rev.*, 1922, pp. 412–16.

———. "Comparative Tax Rates of Cities," annually in December number, *Nat. Mun. Rev.*

Robinson, Allan. "The Heavier Land Tax," *Annals Amer. Acad. Pol. and Soc. Sci.*, LVIII (1915), 198–201.

Robinson, C. P. "State Taxation and Forest Lands," *Pol. Sci. Quar.*, XXIV (1909), 615–22.

———. "Mortgage Recording Tax." *Pol. Sci. Quar.*, XXV (1910), 609–24.

Rosewater, V. "Value in Taxation," *Pol. Sci. Quar.*, XVIII (1903), 88.

———. "The Nebraska Revenue Law," *Quar. Jour. Econ.*, XVIII, 293 ff.

———. "Burden of Tax Exemption of Government Bonds: A Reply," *Amer. Econ. Rev.*, XVII (1927), 52–54.

Rottschaefer, Henry. "State Taxation of National Bank Shares," *Minn. Law. Rev.*, VII, 357 ff.

Rowe, W. H. "Burden of Tax Exemption of Government Bonds," *Amer. Econ. Rev.*, XVI (1926), 653–59.

Rowlands, D. T. "Commonly Accepted Evidences of Real Estate Value for Purposes of Taxation," *Annals Amer. Acad. Pol. and Soc. Sci.*, CXLVIII (1930), 88–96.

Saxe, Martin. "Exemption of Real Estate from Taxation," *Amer. City*, 1916, pp. 142–43.

———. "The Threatened Discrimination in Bank Taxation," *Bankers Mag.*, December, 1927.

———. "Proposed Specific Tax on Bank Shares." *Amer. Bankers Assoc. Jour.*, November, 1929.

———. "Practical Application of Excise Taxation to Banks," *Bankers Mag.*, November, 1928.

Scholz, Karl. "Inadequacy of Actual Selling Price of Real Estate as Evidence of Fair Present Value for Purposes of Taxation," *Annals of Amer. Acad. Pol. and Soc. Sci.*, CXLVIII (1930), 157–64.

Schmeckebier, L. F. *Taxation in Georgia.* "J. H. Studies," 1900.

Schweppe, A. J. "State Taxation of National Bank Stock—Uncertainty of Its Constitutionality," *Minn. Law Rev.*, VI, 219 ff.

Scott, J. A. "Methods of Assessing Property in Duluth," *Minn. Municipalities*, April, 1926.

Seager, H. R. "The Pennsylvania Tax Conference," *Annals Amer. Acad. Pol. and Soc. Sci.*, IV, 805 ff.

Secrist, H. "Home Rule in Taxation," *Quar. Jour. Econ.*, XXVIII, 490 ff.

Seligman, E. R. A. "Tax Exemption through Tax Capitalization: A Reply," *Amer. Econ. Rev.* VI (1917), 790–807.

———. "The Franchise Tax Law in New York," *Quar. Jour. Econ.*, XII, 445 ff.

———. "The Income Tax in American Colonies and States," *Pol. Sci. Quar.*, X (1895), 221–47.

———. "Newer Tendencies in American Taxation," *Annals Amer. Acad. Pol. and Soc. Sci.*, LVIII (1915), 1–11.

———. "The New Mortgage Tax in New York," *Amer. Mo. Rev. of Rev.*, XXXII (1905), 85–88.

———. "Pending Problems in Public Finance," *Pol. Sci. Quar.*, XX (1905), 480–92.

———. "The Progress of Taxation during the Past Twenty-five Years, and Present Tendencies," *Amer. Econ. Assoc. Quar.* (3d ser.), XI, No. 1 (1910), 331 ff.

———. "Recent Discussion of Tax Reform," *Pol. Sci. Quar.*, XV, (1900), 629–46.

———. "Recent Reports on State and Local Taxation," *Pol. Sci. Quar.*, XXII (1907), 297 ff.

———. "Relation of State and Federal Finances," *No. Amer. Rev.*, CXC (1909), 615–27.

———. "The General Property Tax," *Pol. Sci. Quar.*, V (1890), 24 ff.

———. "The Taxation of Corporations," *Pol. Sci. Quar.*, V (1890), 269, 438, 636 ff.

"Two Experiments in the Taxation of Franchises. The Special Franchise Tax in New York," *Rev. of Rev.*, 1904, pp. 716–17.

—. "Mortgage Taxation in New York," *Pol. Sci. Quar.*, XV, 640 ff.

Sidlo, F. L. "Ohio's First Step in Tax Reform," *Yale Rev.*, XVIII (1910), 413–19.

Simpson, H. D. "The Tax Situation in Chicago," *Nat. Mun. Rev.*, XVII (1928), 522–33, 593–99, 690–95.

———. "Taxation of Public Service Industries," *Jour. Land and Pub. Util. Econ.*, I (1925), 44–70.

———. *The Tax Situation in Illinois.* Institute for Research in Land Economics and Public Utilities, 1929.

Smith, Reed. *Tax Reform in South Carolina.* Bul. Univ. So. Car., No. 101 (1921).

Snavely, T. R. "Virginia's Progress in Tax Reform," *Tax Digest*, September, 1929.

———. *The Taxation of Negroes in Virginia*, "Pub. Univ. of Va.," 1916.

Somers, W. A. "The Valuation of Real Estate for Taxation," *Nat. Mun. Rev.*, II, No. 2 (1913), 230–38.

Sprague, C. E. "Proposed Mortgage Tax in New York State," *Gunton's Mag.*, XVIII (1900), 218–25.

Spurrier, L. *Reassessment.* Unpublished thesis, University of Kansas, 1924.

Stamp, J. C. "The Tax Experiment in Wisconsin," *Econ. Jour.*, XXIII, 142 ff.

Steiner, A. M. *Taxation of Mineral Lands.* Bul. Univ. Texas, No. 39 (1919), pp. 138–46.

Stewart, R. "Farmer's Tax Burden," *Amer. Rev. of Rev.*, LXXVI (1927), 69 ff.

Stockton, Frank T. "The Report of the Indiana Special Commission on Taxation," *Amer. Econ. Rev.*, VII, No. 1 (1917), 210–33.

Stotsenburg, Evan B. *The Classification of Property for Taxation.* Ind. Univ. Bul., XII, No. 15 (1915), 151–57.

Stutz, J. G. (ed.) "Annual Tax Rate Number," *Kansas Municipalities*, 1921 to date.

Sutherland, Douglas. Study No. 2, "The Civic Federation Constitutional Series," *Taxation and Public Finance.* 1919.

Swan, C. H. "Impersonal Taxation," *Supplement Annals Amer. Acad. Pol. and Soc. Sci.*, 1907.

Sydenstricker, Edgar. *A Brief History of Taxation in Virginia.* Legislative Reference Bureau, 1915.

Traynor, R. J. "National Bank Taxation in California," *Calif. Law Rev.*, January, 1929.

Tunell, G. G. "Value for Taxation and for Rate-Making," *Jour. Pol. Econ.*, XXXV, No. 1 (1927), 1–38.

Van Sickle, J. V. "Classification of Land for Taxation," *Quar. Jour. Econ.*, XLII, No. 1 (1927), 94–116.

Viner, Jacob. *A Report on the Proposed Amendment to the Revenue Clause of the Illinois Constitution in Its Bearing upon Real Estate*, Building Managers' Assoc. of Chicago, 1925.

Virtue, O. G. "New Phases of the Classified Property Tax," *Jour. Pol. Econ.*, XXIX (1921), 603–7.

Wallace, C. P. "The Taxation of Money and Credits," *Minn. Acad. Soc. Sci.*, I, No. 1 (1908), 169–85.

Waltersdorf, M. C. "Tax Relief for Electric Street Railways," *Nat. Mun. Rev.*, June, 1928.

Watkins, Gordon. *A Survey of the Revenue System of Delaware County, Pennsylvania, 1918.*

Weaver, F. P. "General Property Tax as a Factor in Unsatisfactory Agricultural Conditions," *Annals Amer. Acad. Pol. and Soc. Sci.*, CXLII (1929), 312–17.

Weaver, F. P., and King, C. L. *Some Phases of Taxation in Pennsylvania.* Penn. Dept. of Agric. Bul., No. 437 (1926).

Wehrwein, G. S. "Land Ownership, Utilization and Taxation in Bayfield County, Wisconsin," *Jour. Land and Pub. Util. Econ.*, May, 1930.

Wells, D. A. "The Reform of Local Taxation," *No. Amer. Rev.*, CXXII, 357 f.

Westchester County Chamber of Commerce (New York). *Tax Exemptions on Real Estate.* Prepared by Philip Adler, 1922.

Western States Taxpayers' Conference. *Annual Proceedings*, 1922 to date.

White, C. P. "Problems of Taxation in Tennessee," *Annals Amer. Acad. Pol. and Soc. Sci.*, CLIII (1931), 238–45.

Williamson, K. M. "State Taxes on Savings Banks in New England," *Amer. Econ. Rev.*, XVIII (1928), 45–64.

Wolcott, E. H. *Amendment of the Tax Clause of the Constitution of Indiana.* Ind. Univ. Bul., XII, No. 4 (1914), 166–77.

Woodward, K. W. *Taxation of Woodlots.* N.H. Col. Ext. Service, 1918.

Yarros, V. S. "Chicago's Sensational Tax Cases," *Nat. Mun. Rev.*, IV, No. 3 (1915), 448–53.

Youngman, Anna. "The Revenue System of Kentucky: A Study in State Finance," *Quar. Jour. Econ.*, XXXII, No. 1 (1917), 142–205.
Youngquist, G. A. "Taxation of National Banks." Address at annual meeting of Attorneys General, Buffalo, August 27, 1927.
Yount, H. W. *Farm Taxes and Assessments in Massachusetts.* Mass. Exper. Sta. Bul., No. 235 (1927).
Zeisler, L. B. "The Mortgage Registry Tax in New York," *Cornell Law Quar.*, December, 1930.
Zoller, J. F. *Taxation of Intangible Personal Property.* 1915.

IV. REPORTS OF PERMANENT TAX COMMISSIONS

Arkansas. *Second Biennial Report of the Tax Commission, 1910–1912.*
California. *Biennial Reports of the Board of Equalization,* 1888 to date.
Connecticut. *Information Relating to the Assessment and Collection of Taxes, 1921–1924.*
———. *Quadrennial Statement of Property Exempted from Taxation.*
———. *Report of Tax Commissioner,* 1917 to date.
Colorado. *Annual Reports of the Tax Commission,* 1912 to date.
Idaho. *Biennial Report of Department of Finance,* 1919 to date.
Illinois. *Annual Reports of Tax Commission,* 1920 to date.
Indiana. *Annual Report of the State Board of Tax Commissioners,* 1891 to date.
———. *Proceedings Annual Conference of State Board of Tax Commissioners and County Assessors,* 1900 to date.
Iowa. *Report of Board of Assessment and Review, 1930.*
Kansas. *Biennial Reports,* 1908 to date.
——— Tax Commission. *Reports to the Legislature, 1909–1925.*
Kentucky. *Annual Reports of the Tax Commission,* 1918 to date.
Louisiana. *Annual Reports of the Tax Commission,* formerly Board of State Affairs, 1916 to date.
Maine. *Report of the State Board of Assessors,* 1890 to date.
Maryland. *Reports of the Tax Commissioner,* 1881, 1885, 1888, 1896.
———. *Biennial Report of State Tax Commission,* 1916 to date.
Massachusetts. *Report of the Tax Commissioner,* 1908 to date.
Michigan. *Reports of Michigan Board of State Commissioners,* 1900 to date.
Minnesota. *Biennial Reports,* 1908 to date.
Missouri. *Biennial Reports of Tax Commission,* 1918 to date.
Montana. *First Biennial Report of the State Board of Equalization, 1924.*
Nebraska. *Annual Report of the State Tax Commissioner and the State Board of Equalization and Assessment,* 1920 to date.

Nebraska. *Analysis of 1921 Taxes*, Department of Finance.
Nevada. *Biennial Reports of the Tax Commission, 1920–1924.*
New Hampshire. *Annual Reports of the State Tax Commission*, 1911 to date.
New Jersey. *Report of the Board of Equalization of Taxes, 1907–1924.*
New Mexico. *Biennial Report of the State Tax Commission*, 1916 to date.
New York. *Reports of the State Tax Commission*, 1909 to date.
New York City. *Report of Commission of Taxes and Assessment, 1907–1916.*
North Carolina. *Report of the State Tax Commission*, 1902, 1912 to date.
North Dakota. *Biennial Reports of the Tax Commissioner*, formerly the Tax Commission, 1910 to date.
Ohio. *Annual Report of the Tax Commission*, 1912 to date.
Oregon. *Biennial Report of the State Tax Commission*, 1911 to date.
Rhode Island. *Annual Reports of the Tax Commissioners*, 1913 to date.
South Dakota. *Annual or Biennial Reports of the Tax Commission*, 1913 to date.
South Carolina. *Annual Reports of the Tax Commission*, 1915 to date.
Utah. *Report of Tax Commission, 1920–1923.*
Vermont. *Biennial Report of the Commissioner of Taxes*, 1912 to date.
Washington. *Reports of State Board of Tax Commissioners*, 1906 to date.
West Virginia. *Biennial Report of State Tax Commissioner*, 1907–1908, 1909–1910, 1922 to date.
Wisconsin. *Biennial Reports of the Tax Commission*, 1898 to date.
Wyoming. *Report of Tax Commission, 1911–1912.*

V. SPECIAL REPORTS

Arizona. *Report of the Tax Conference* (annual).
California. *Final Report of the Tax Commission, 1929.* (*Preliminary Report, 1928.*)
———. *Report of the Commission on Revenue and Taxation, 1906.*
———. *Report of the Commission on Revenue and Taxation, 1910.*
———. *Report of the State Tax Commission, 1917.*
Connecticut. *Information Relative to the Assessment and Collection of Taxes, 1927.*
Georgia. *Report of Special Tax Commission, 1919.*
———. *Report of Special Tax Commission, 1929.*
Illinois. *Proceedings of Constitutional Convention*, vols. 1–4 (1920–1922).
———. *Report of Joint Legislative Revenue Committee, 1929.*
Indiana. *Proceedings of a Conference on Taxation in Indiana.* Ind. Univ. Bul., Vol. XII, No. 4 (1914).
———. *Second Annual Conference on Taxation in Indiana.* Ind. Univ. Bul., Vol. XII, No. 15 (1915).

———. *Report of the Commission on Taxation, 1916.*

———. *Proceedings Conference of State Board of Tax Commissioners and County Assessors, 1921.*

Iowa. *Reports of the Special Tax Commission, 1912.*

Kansas. *Proceedings of the Biennial Conference of the Tax Commission and the County Assessors,* 1907 to date.

———. *Report of the Tax Code Commission, 1929.*

Kentucky. *Report of the Tax Commission, 1912.*

———. *Report of Special Tax Commission, 1914.*

———. *Report by the Efficiency Commission: Revenue and Taxation, 1923.*

———. *Report of Special Tax Commission, 1916.*

Louisiana. *Report of the Assessment and Taxation Commission to the Constitutional Convention, 1921.*

Maine. *Report of the Special Tax Commission, 1889.*

———. *Report of the Maine Tax Commission, 1908.*

Maryland. *Report of the Maryland Tax Commission to the General Assembly, 1888.*

———. *Report of the State Tax Commission of Maryland, 1912.*

———. *Report of Tax Revision Commission, 1923.*

Massachusetts. *Report of the Commissioners Appointed To Inquire into the Expediency of Revising and Amending the Laws Relating to Taxation and Exemption Therefrom, 1875.*

———. *Report of the Commission Appointed To Inquire into the Laws of the Commonwealth Relating to Taxation,* Boston, 1897.

———. *Report of the Joint Special Committee Appointed To Revise, Consolidate and Arrange the Taxation Laws, 1907.*

———. *Report of the Commission on Taxation, 1908.*

———. *Report on Massachusetts Commission on Taxation, 1909.*

———. *Report of Special Tax Commission, 1929.*

Michigan. *Report of the Commission of Inquiry into Taxation, 1911.*

———. *Report of the Michigan Committee of Inquiry into Taxation, 1923.*

———. *Report of the State Commission of Inquiry into Taxation, 1930.*

Minnesota. *Brief on Amending Subdivision B, Paragraph 1, Section 5219 R.S.* By the state of Minnesota, in its behalf and in behalf of forty-two other states, 1928.

Missouri. *Report of the State Survey Commission, 1930.*

National Civic Federation. *Proceedings of the National Conference on Taxation,* Buffalo (May, 1901).

Nebraska. *Report of the Special Commission on Revenue and Taxation, 1914.*

New Hampshire. *Report of New Hampshire Tax Commission, 1908.*

———. *Report of the Tax Commissioners of New Hampshire, 1878.*

New Hampshire. *Report of the Recess Tax Commission, 1927–1928.*

New Jersey. *Report of the Commission To Investigate the Subject of Taxation, 1897.*

———. *Report of the Commission To Investigate the Subject of Taxation, 1912.*

New York. *Report of the Joint Legislative Committee on Taxation, 1916.*

———. *Report of the Special Joint Committee on Taxation and Retrenchment, 1922*, and subsequent reports. Legislative documents, on various subjects.

———. *Addresses and Proceedings State Conference on Taxation, 1911–1921.*

———. *State Tax Bulletin*, on various subjects.

North Carolina. *Report of the Tax Commission, 1928.*

Ohio. *Report of the Tax Commission of Ohio, 1893.*

———. State Board of Commerce, *Something for Taxpayers To Think About, 1907.*

———. *Report of the Tax Commission, 1908.*

———. *Report of the Special Committee of the Senate, 1910.*

———. *Report of the Special Joint Taxation Committee, 1919.*

———. *Report of the Joint Legislative Committee on Economy and Taxation, 1926.*

Oregon. *Report of the Board of Commissioners To Examine the Matters of Assessment and Taxation, 1886.*

———. *Report of the Board of Commissioners Examining and Reporting on Matters of Assessment and Taxation, etc., 1906.*

———. *Report of the Committee on Tax Investigation, 1923.*

———. *Report of the Property Tax Relief Commission, 1929.*

Report of the State Commission of Inquiry into Taxation, 1930.

Pennsylvania. *Brief History of Taxation in Pennsylvania.* By W. P. Snyder, auditor general, 1906.

———. *Report of the Committee on Taxation Study to the Council of the City of Pittsburgh, 1916.*

Report of Special Tax Commission (Preliminary 1925, and Final 1927).

Rhode Island. *Report of the Joint Special Committee on the Taxation Laws, 1910.*

South Carolina. *Report of the Joint Special Committee on Revenue and Taxation, 1920.*

Tennessee. *Report of Committee to Investigate Assessment and Taxation, 1915.*

———. *"Tennessee Taxation and Finance," Report of State Tax Committee, 1930.*

Texas. *Report of the Tax Commission, 1899.*

Utah. *Final Report of the Board of Commissioners on Revenue and Taxation, 1913.*

———. *Report of Tax Revision Commission, 1929.*

Vermont. *Special Report to the General Assembly Relating to Taxation of Corporations and Individuals, by Commissioner of State Taxes, 1902.*

———. *Report of the Commission on Taxation, 1908.*

Virginia. *Report of Special Tax Commission, 1911.*

———. *Report of the Joint Committee on Tax Revision, 1914.*

Washington. *Papers and Discussion of the State Tax Conference at the University of Washington, 1914.*

———. *Report of the Tax Investigation Commission, 1930.*

West Virginia. *Preliminary and Final Report of the West Virginia State Tax Commission, 1902.*

Wisconsin. *Report of Interim Committee on Administration and Taxation, 1926.*

VI. UNITED STATES DOCUMENTS

Bureau of the Census. *Report on Wealth, Debt, and Taxation, 1902.*

———. *Report on Wealth, Debt, and Taxation, 1912*, 2 vols.

———. *Report on Wealth, Public Debt, and Taxation, 1922.*

———. *Special Report on Taxation, 1914.*

———. *Financial Statistics of Cities* (annual).

———. *Financial Statistics of States* (annual).

———. *Digest of State Laws Relating to Taxation and Revenue, 1922.* Published as a part of *Wealth, Debt, and Taxation* in 1902, 1907, and 1912.

———. *Assessed Valuation of Property and Amounts and Rates of Levy, 1860–1912.*

Bureau of Corporations. *Reports on the Taxation of Corporations*, Parts I–VI (1912–1913).

Bureau of Internal Revenue. *Statistics of Income*, (annual).

Department of Agriculture, *Progress Report of the Forest Taxation Inquiry, 1928–1930.*

Hearings before the Committee on Banking and Currency, House of Representatives (Seventieth Congress, first session on H.R. 8727, to amend Section 5219 R. S., U.S., [1928]).

Industrial Commission. *Report*, Vol. IX (1901).

Interstate Commerce Commission. *Railways in the United States.* Part V: "The Taxation of Railways," (Washington, 1903).

Taxation and the Farmer. A Bibliography of nearly 750 articles.

INDEX

Adams, H. C., 139

Adler, Philip, 145

Alabama
- assessment, 332, 344, 358, 421
- average value, 219
- classification, 175–76
- collection, 314–15, 317
- constitution, 37, 161–62
- equalization, 364, 366
- exemptions, 117, 136, 140
- intangibles, 114, 117, 120
- tax commission, 364, 396
- tax rates, 461, 464
- uniformity, 161–63, 165

American Bankers Association, 211

Angell, E. A., 356–57

Appraisals, 237, 454–55

Appreciating assets
- assessment, 225
- bare-land tax on, 232
- fiscal aspects, 233
- forest property, 224, 226, 231–32
- value factors, 225
- yield tax on, 321–22

Arizona
- assessment, 332, 335, 340, 358, 447
- classification, 175–76
- collection, 313–14
- constitution, 42, 102
- equalization, 364
- exemptions, 127, 140, 152
- intangibles, 107, 115, 119, 122
- mineral property, 236
- tax commission, 364, 396, 400
- uniformity, 165

Arkansas
- assessment, 332, 343–44
- collection, 309, 312, 314
- constitution, 38, 103, 161–62
- equalization, 364
- exemptions, 136, 140
- farm taxes, 94
- intangibles, 108, 115, 119, 122
- tax commission, 364, 396
- tax rates, 461, 464
- uniformity, 161–63, 165

Armson, J. G., 471

Assessment
- assessors, 332–33, 335, 358–59, 362
- cadastral, 339
- of classified property, 274
- continuous, 339
- decentralization of, 359
- definition, 160
- duties of agent, 346
- duties of taxpayer, 346–50
- of exempt property, 125, 129, 141
- expert, 234, 429
- at full value, 165
- home rule doctrine, 360
- inequalities in
  - among industries, 301–4
  - producing regressivity, 294–97
  - among tax districts, 285–93
  - urban versus rural, 297–301
- intervals, 332–33, 337–39
- of omitted property, 358–59
- of personalty declining, 265–66
- ratios
  - differential, 57–58, 211, 230–31, 286–88, 410–12
  - fractional, 162–63, 177, 179, 181, 183, 195, 206
- requisites, 359, 402
- self, 190, 347–48
- separate, 443–44
- at source, 190, 442
- statutes of limitations, 358
- supervised, 401–2
- unit area, 332–34, 359
- variations in practice, 331
- *See also* Central assessment, Market value, Non-listing, Re-assessment, Sales value, Statutory valuation, Taxable value, Tax commission, Undervaluation, Unequal assessments, Valuation, and subjects under the several states

Assessors
- civil service, 360
- compensation, 343–45, 352, 354
- ex officio, 334, 341, 345
- powers and duties of, 351–53

Assessors—*Continued*
selection of, 340–42
tenure of, 341, 360
Association of States for Bank Taxation, 214
Atkinson, R. C., 468, 472, 476

Baltimore, 334–36
Banks
assessment, 206, 211
commercial and investment, 214
"competing moneyed capital," 205, 207
compromises, 212
deductions, 205–6, 208
deposits, 185, 187, 191, 193, 215
excise tax, 208
exempt assets, 210–11
Fourteenth Amendment, 205, 212
income tax, 208, 212
low-rate millage tax, 206–11
national, 204
real estate of bank, 205
Section 5219, 205
shares of, 120, 183, 185, 187, 189, 191, 198, 205
Barnes, O. F., 224, 233, 237
Benton, E. J., 376
Bernard, A. D., 452
Bernard rule, 452
Bernard-Lindsey rule, 453
"Besitzsteuer," 51, 113
Blakey, R. G., 98, 233, 238, 290
Blough, J. R., 79
Bodden, E. H., 218
Bogart, E. L., 44, 338, 354, 372, 436
Bonbright, J. C., 436
Bond, B. W., 20–22, 33
Bowman, Noah, 100
Boyle, J. E., 347, 376
Bradford, R. L., 210
Bridgeport, Conn., 440
Brindley, J. E., 195, 337, 341, 355
Brown, H. G., 53–55, 57–61
Buffalo, N.Y., 453
Building and loan associations, 216
Bullock, C. J., 27, 48, 95, 203, 479, 489

Bureau of the Census
Digest of State Laws, 116, 194–96, 331, 448
Financial Statistics of Cities, 10
Financial Statistics of States, 4, 10, 284
general, 262–63
Wealth, Debt and Taxation, 1–4, 6, 9, 12, 126–27, 135, 283–84, 286
Bureau of Internal Revenue, 98
Burnham, W. W., 440

California
assessment, 332, 358, 444
banks, 209
classification, 173–75, 197–98
collection, 312–14
constitution, 39, 41–42, 102, 152, 198, 250, 382
controller, 255
delinquency, 328
equalization, 364, 371, 381–82, 385, 387–90, 438
exemption, 136, 140–42, 150, 152, 154
farm taxes, 70–72
gross receipts tax, 138, 238
intangibles, 107–8, 117, 118–19, 122, 168
mineral property, 239
sales-value check, 286
segregation, 245–48, 250, 255, 260
Special Tax Commission 1906, 253, 287
Special Tax Commission 1928, 154, 246–47, 253–54, 258–60
state board of equalization, 142, 168, 253
tax commissioner, 396, 438
uniformity rule, 165, 427
Campbell, R. A., 36–37
Cannan, Edwin, 21–23, 110
Capital value, 64–67
Capitalization
effects of overassessment on, 329–30
effects of tax rates on, 64
formulas, 64–69
hypotheses of, 65, 67
imperfection of, 92–93
speculation and, 69, 72
tax relief and, 76
and taxable capacity, 90
See also Assessment, Central assessment, Market value, and Sales value

Carucage, 24
Carver, T. N., 83, 354, 357
Casey, J. J., 454
Cassel, Gustav, 62
Central assessment
  agencies for, 418–20
  comparison with other property, 436–37
  comparison with previous practice, 434–36
  court decisions
    importation for taxation, 426
    Indiana railroad tax cases, 425
    Kentucky railroad tax case, 425
    unity of ownership, 427–48
  distribution of revenue, 434
  equalization of, 437–38
  handicaps of local assessor, 415, 419, 435, 442
  for local taxation, 433–34
  need for, 416–18
  property involved
    banks, 442
    franchise element, 417
    interstate, 416
    intrastate, 416
    miscellaneous, 424
    other transportation, 421–23
    public utility, 423
    railroad, 418, 420–21
    telephone and telegraph, 423
  for state taxation, 432–33
  unit valuation, 424–28
Central control
  county auditor, 392
  ex officio, 398–99
  state officers, 393
  state tax commissions, 392, 395–98
Chamber of Commerce of the United States, 379
Chapman, H. H., 225
Charleston, S. C., 368
Chatters, C. H., 318
Chicago, 285, 303, 307, 323, 411–12, 453, 467–68
Circulating capital, 218–19
Clarke, G. B., 295–96
Classification
  aspects of
    commercial, 202
    ethical, 201
    fiscal, 201–2
    transitory, 203
  by assessment methods, 174, 220
  constitutional, 175, 196
  definition, 174, 223
  differential assessment ratios, 173, 175, 178–79, 183, 194, 198
  differential tax rates, 173, 175, 177, 183–84, 194, 198
  by exemptions, 174
  nature of
    illegal or unofficial, 174, 184
    legal, 174
  property involved
    forest property, 224, 233
    intangibles, 173, 196–98
    railroad property, 196
    real estate, 220
  as a recording tax, 178, 180, 185, 196
  revenue capacity, 180, 182, 185, 187, 190–94, 202, 281
  scope of
    general, 173, 175, 177–78
    limited, 173, 175, 196–97
  by special taxes, 175, 177, 196
  as a stamp tax, 176
Collection
  agencies of, 308–11
  collector's compensation, 310–11
  cost of, 315
  county collector, 309, 316
  discounts and rebates, 314
  duplication, 309
  grace, period of, 314
  instalment payments, 313
  penalties and interest, 315
  procedure, 308, 311–12, 317, 326
  responsibility of towns, 309
  time of payment, 312–13
  township collector, 309
  See also Tax delinquency
Colonial charters, 36
Colorado
  assessment, 332, 341, 420
  central assessment, 420
  collection, 313–14
  constitution, 41, 103, 370, 381, 420
  delinquency, 324, 326–27
  equalization, 364, 370, 380–81
  exemption, 114, 125, 127, 140
  farm taxes, 94
  intangibles, 107, 115, 118–20, 122, 167
  non-listing, 269–71, 403
  reassessment, 413

Colorado—*Continued*
 tax commission, 370, 380, 396, 402–3, 420
 tax rates, 460, 462, 464–65
 undervaluation, 285
 uniformity, 165
Compton, R. T., 63, 327–29
Concentration of governmental costs, 76, 79
Concentration of taxable property, 79–80, 247–49, 251
Confiscation, 63–65
Connecticut
 assessment, 332, 337, 440, 457
 average value, 219
 banks, 206, 215
 central assessment, 418
 choses in action, 191
 classification, 175–76, 191
 collection, 314, 317
 colonial tax system, 30
 constitution, 37
 equalization, 361, 364, 367, 382
 exemption, 125, 137, 139, 152, 159
 "grand list," 30
 intangibles, 114–15, 119, 122
 lump-sum apportionments, 30, 254
 non-listing, 276
 quadrennial statement of exempt property, 159
 railroad property, 415
 Special Tax Commission, 31
 statutory valuations, 30
 tax commissioner, 382, 396
 tax rates, 460, 465
 uniformity, 165
Connelly, W. F., 440, 455, 457
Constitutional boards of equalization, 365, 370, 381, 420
Constructive market value
 basic unit value, 452
 corner influence, 452
 the courts, 448, 457
 definition, 450
 depreciation, 456
 derivation
  improvements, 454–56
  land, 450–53
 formulas, 452–54
 intangible value, 456
 need for, 439, 441–42, 448–49
 objections to, 456
 reproduction cost, 455
 requisites, 457–58
 value factors, 451–55
Cook County, 76, 86, 269, 272, 293, 309, 311, 322–23, 387–88, 409–13, 456, 467–68, 474
Cooke, Thornton, 212
Cooley, M. E., 429
Coombs, Whitney, 70–73, 81–82, 89, 93–94
Corbin, W. H., 255, 463
Corporate stock, 121–23
County assessor, 309, 332–36, 340, 360
County auditor, 334, 351–54, 372, 392, 436, 442, 471–72
County collectors, 309–12
County commissioners, 352, 367–70, 372, 447, 464
County taxes, 5–8, 10, 16, 46, 145, 158, 185

Danegeld, 24
Daume, E. F., 200
Deductions for debts, 114, 116, 118
Delaware
 assessment, 332, 337, 419
 central assessment, 419
 classification, 175–76
 colonial tax system, 35
 constitution, 36, 38, 42
 equalization, 363, 367
 exemptions, 152
 imprisonment for taxes, 307
 intangibles, 117–18, 122
 segregation, 247, 260
 tax commission, 364, 396, 400
 tax rates, 464
 uniformity, 165
Delinquency. *See* Assessment, Collection, and Tax delinquency
Denver, 340, 403, 453
Depreciating assets
 assessment, 235–36, 238
 definition, 234
 fiscal aspects, 235, 237
 "heritage element," 239
 oil wells, 237
 value factors, 234–35
Detroit Bureau of Governmental Research, 87
Diffusion theory of tax shifting, 54, 59

Discrimination in assessment. *See* Assessment, Equalization, Sales-value check, Unequal assessments
District of Columbia
  assessment, 332
  average value, 219
  classification, 175–76
  collection, 313–14
  equalization, 364, 367
  non-listing, 275–76
  tax exempts, 210
Douglas, C. H. J., 27, 109, 263, 342, 369
Dowell, Stephen, 23–24, 351

Edgerton, John, 181
Ely, R. T., 243, 338, 471
England
  carucage, 24
  danegeld, 24
  "fifteenths and tenths," 23
  land tax, 24
  local rates, 21–23, 66
  lump-sum apportionment, 25
  Saladin tithe, 23–24
  scutage, 24
  subsidies, 25
  tax system, 21–26
Englund, Eric, 294–95, 299–300
Equalization
  agencies
    constitutional, 365–370, 381, 420
    local boards, 358, 362–68, 371
    ex officio, 364–65, 370–72, 374, 379–82
    state boards, 364–65, 368–71
    tax adjuster, 366
    tax commission, 364–65, 370–71, 374, 376, 380–81
    tax equalizer, 370
  of centrally assessed property, 373, 437–38
  definition, 361
  functions, 358, 361–64, 373
  limitations of, 386–89
  personnel, 374–75, 378, 380–81
  requisites, 378–81
  restrictions upon, 382–83, 389
  for revenue control, 389–91, 462
  sales-value data, 383–85
  systems
    colonial, 369
    co-ordinate functional, 372
    dual, 368–70
    single, 367
    triple, 371
    undeveloped, 366–67
  tests of effectiveness
    California, 387–88
    Illinois, 377, 388
    Kansas, 374, 376
    Wisconsin, 374–76
Equities, 49–51
Evans, M. G., 64
Ex officio agencies
  central assessment, 419–20, 424, 438
  equalization, 364–65, 370–72, 374, 379–82
  local assessment, 341
Exempt property
  classified, 113, 131–32, 139
  distribution of, 128, 143–44
  effects of concentration of, 145–46
  new buildings, 131–32
  percentage of taxable, 126–27, 129
  personalty, 133
  real property, 126–32
  representative intangibles, 134
Exemption
  amendments to eliminate, 135
  in colonial period, 125
  dangers in, 146, 158
  justification of, 146, 148
  property of
    charitable organizations, 154
    educational enterprises, 151–52
    forests, 228
    fraternal associations, 154
    growing crops, 136, 156
    improvements, 138, 157
    livestock, 137, 156
    minimum amount, 155
    public bonds, 134–36
    public property, 126–27, 139, 228
    religious institutions, 131, 148–50
  pseudo-exemptions, 133–36
  for purposes of
    honorific, 155
    industrial encouragement, 156–57
    tax relief, 156
  See also Exempt property and exemptions under the several states

"Faculty tax," 26–27, 97
Fairchild, 192, 226–30, 457
Fankhauser, W. C., 168, 382, 388, 390
Farm rent and taxes, 72, 74

Farm taxes
per acre, 70–71
percentage of net rent, 70, 93–94
percentage of value, 71, 73–74, 81–82
"Fifteenths and tenths," 23
Fletcher, F. N., 171
Florida
assessment, 332, 355, 358, 418
banks, 210
classification, 175, 197
collection, 309, 311, 314
constitution, 38, 41–42
delinquency, 328
equalization, 364, 370–71, 382, 396
equalizer of taxes, 364, 370, 396
intangibles, 117, 119, 122
tax rates, 464
uniformity, 164–65
Foote, A. R., 255, 463
Forest Taxation Inquiry, 226–30

General property tax
concept of, 220
criticism, 478
definition, 1
disintegration of, 242, 279, 306, 478
retention of, 479–86
Geographic divisions
exempt property by, 126–27
index of taxes by, 88
percentages taxes are of revenue by, 81, 93
ratio of property taxes to all taxes by, 5, 13
tax revenue by, 13
Georgia
assessment, 332, 340, 355, 358
central assessment, 419, 421, 430
collection, 309, 370
constitution, 36, 40, 103, 162
equalization, 364, 370
intangibles, 119, 122
tax commission, 364, 396, 400
uniformity, 162, 165
Government, as joint beneficiary, 67
Growth of taxes, 87–89
Gulick, Luther, 245

Haas, G. C., 451
Haig, R. M., 35, 45, 199, 244, 264, 349, 354, 381
Hardy, C. O., 135
Harper rule, 452
Harrison, M. W., 215
Heer, Clarence, 88
Hoffman-Neill rule, 453
Hollander, J. H., 193, 478
Homogeneity of property, 166–67
Howe, C. R., 447
Howe, S. T., 223, 416, 473
Huang, Hsien Ju, 415, 429

Idaho
assessment, 332, 340, 444
bureau of budget, 397, 400
central assessment, 419
classification, 175, 240
collection, 309, 311, 313–15, 317
constitution, 41, 102, 462
equalization, 364, 370
exemption, 127, 136, 140
intangibles, 114, 117–18, 122
motor vehicles, 138
tax rates, 460, 462, 467
uniformity, 165
Illinois
assessment, 298, 332, 334, 340, 349, 354, 392
central assessment, 421, 424, 433, 435, 437
collection, 309–11, 314
constitution, 35, 37, 39–40, 46–47, 101, 103, 162, 474
early tax system, 45–46
equalization, 364, 377, 382, 388–89, 437–38
exemption, 127, 140, 157
farm taxes, 70–72
intangibles, 114, 117, 122
Juul law, 474
non-listing, 264, 266, 269, 275–76
reassessment, 408–13
Special Tax Commission of 1910, 389
state board of equalization, 377
tax commission, 298, 364, 377, 389, 397, 409, 437, 475
tax rates, 462, 464, 467–68, 474–75
uniformity, 162–63, 165
Illinois Agricultural Association, 297–98, 409
Illinois Central Railroad, 103, 157–421
Incidence of
differential taxes, 54–55
taxes on

consumers goods, 56
improvements, 59–61
land, 61–62
non-representative intangibles, 54
producers capital, 56–57, 59
representative intangibles, 55–56
Indiana
administrative control, 475–76
assessment, 287, 294, 301, 332, 335, 337, 353, 392
central assessment, 421, 425, 435
collection, 314
constitution, 37, 39
equalization, 364, 369, 378, 385
exemption, 141, 152
farm taxes, 70–72, 94
intangibles, 108, 115, 122
sales-value check, 286–87, 294
Special Tax Commission of 1916, 294–95, 302
tax commission, 364, 369, 397, 400, 475–76
tax rates, 462
Insurance companies, 121
Iowa
assessment, 285, 287, 332, 336–37, 353, 355–56, 392
average value, 219
banks, 206
board of assessment and review, 364, 397
classification, 175, 194
collection, 313–14, 317
constitution, 38
equalization, 364, 371
farm taxes, 70–72, 94
intangibles, 120, 122, 273–74
non-listing, 273–74, 276
sales-value check, 286–87
uniformity, 164–65

James, A. E., 297, 301, 306
Jensen, J. P., 99, 126, 157–58, 211, 269, 271–72, 323–24, 326, 340, 379, 381, 402
Jones, F. R., 30–31

Kansas
assessment, 219, 266, 294, 299–300, 332, 334, 336–37, 340, 347, 352–53, 393, 413, 445–46, 485
banks, 209–10
central assessment, 423, 433
classification, 173, 175–76, 197–98, 223
collection, 311, 313–14
constitution, 38–39, 42, 103
delinquency, 323–24
equalization, 364, 376–77, 382, 400, 402
exemption, 140, 153
farm taxes, 70–72
intangibles, 114, 120, 122–23, 204, 274, 276
sales-value check, 286, 288, 294, 299–300
Tax Code Commission, 237, 323–24
tax commission, 223, 266, 288, 336, 364, 382, 397, 400, 402
tax rates, 248, 473
undervaluation, 284, 288
Kendrick, M. S., 266, 315
Kentucky
assessment, 276, 332, 340, 353, 355, 358
central assessment, 425–26, 442
classification, 173, 175, 177, 184–86
collection, 309, 314–15
constitution, 36, 38, 42, 161
Efficiency Commission, 184, 186, 247, 340, 355, 364
equalization, 364
intangibles, 120, 122, 185, 274, 277–78
non-listing, 262, 265, 273–74, 276–78
segregation, 247
tax commission, 264, 397
Tax Commission of 1912, 262, 265, 273, 277–78
Tax Commission of 1924, 187, 355
tax rates, 464–65
uniformity, 161, 165

Lefler, G. L., 99
Leland, S. E., 2, 84, 171, 173, 175, 182, 187, 190–93, 201, 266, 269, 272, 274, 276
Leroy-Beaulieu, P., 85
Levine, Louis, 182, 240
Loeb, Isidor, 462
Lord, S., 212
Lotz, J. F. E., 84
Lotz, Walther, 50, 86
Louisiana
assessment, 332, 349, 358, 432
average value, 219
classification, 175, 195, 242

Louisiana—*Continued*
 collection, 309
 constitution, 37, 39, 41–42, 103, 242, 349
 equalization, 364, 368
 exemption, 137, 141
 intangibles, 122
 tax commission, 364, 397
 tax rates, 461, 464
 uniformity, 165
Louisville and Nashville Railroad, 184
Lump-sum apportionments, 25, 30–31, 35, 252, 254
Lutz, H. L., 108, 288, 302, 343, 351, 353, 361, 369–70, 375–77, 381, 384, 388, 393–94, 408, 420, 435

McFadden, E. H., 145
McMahon, T. C., 200
Maine
 assessment, 332, 338, 424
 banks, 215
 classification, 175, 196
 collection, 314
 constitution, 37, 42, 338
 equalization, 361, 364, 370
 exemption, 137, 140, 152
 imprisonment for taxes, 307
 intangibles, 118, 122
 motor vehicle taxes, 138
 state board of assessors, 137, 364, 370
Market value, 439–41, 454
Maryland
 assessment, 274, 276, 332, 334, 337, 339, 418
 banks, 206, 215
 classification, 175, 193, 197
 collection, 309, 311, 314
 colonial tax system, 34
 constitution, 34, 39–40, 101
 equalization, 364–67
 intangibles, 114, 122, 274
 poll tax, 34
 quitrents, 20
 sales-value check, 286
 Special Tax Commission of 1888, 117, 149, 337, 339
 Special Tax Commission of 1912, 286
 tax commission, 364, 397
 uniformity, 165
Massachusetts
 assessment, 175, 332, 338, 342, 352, 419
 banks, 209–10, 215
 collection, 311, 315
 colonial tax system, 27, 263
 commissioner of corporations and taxation, 364, 397, 404
 constitution, 36, 338
 early taxable situs, 109
 equalization, 361, 366, 369
 exemption, 125, 128, 139, 152
 farm taxes, 94
 intangibles, 119, 122, 124
 motor vehicle taxes, 138
 non-listing, 263–64
 Special Tax Commission of 1874, 149, 167
 tax rates, 460, 475
 uniformity, 165
Means, D. M., 83
Mellon, A. E., 135
Merriam, C. E., 475
Merrill, J. J., 245
Michigan
 assessment, 288, 332, 338
 board of tax commissioners, 143, 174, 364, 397, 400, 406, 429
 central assessment, 196, 256, 425, 429–30, 433
 classification, 174–75, 196
 collection, 309, 311–12, 314, 317
 constitution, 38–39, 42, 162–63, 196
 delinquency, 327
 Economic Soil Survey, 233
 equalization, 364, 368, 378, 381, 385
 exemption, 139, 143
 farm taxes, 94
 forest property, 232–33
 intangibles, 120, 143, 196
 mineral property, 235–37, 239
 railroad property, 196, 415
 reassessment, 405–7
 sales-value check, 288
 segregation, 256, 260
 tax rates, 460, 464
 tonnage tax, 196
 uniformity, 162–63, 165, 196
Miles, R. E., 472
Mill, J. S., 83
Miller, E. T., 110, 263, 267–68, 273, 341–42, 346, 348, 352, 395
Minnesota
 assessment, 266, 275–76, 332, 334–36, 343, 353, 358, 392, 402, 444–46
 banks, 206, 208, 212

bushel tax, 138
central assessment, 421, 423, 433, 438
classification, 173, 175, 177–79, 220
collection, 313
constitution, 39, 42
delinquency, 226–28, 327
equalization, 365, 371–72, 377, 385, 438
exemption, 139, 141, 157
farm taxes, 70–72
fiscal obstacles to tax reform, 484
forest property, 226
gross receipts tax, 138, 238, 251–52, 260
intangibles, 120, 122, 274
mineral property, 235, 238–39, 241
motor vehicle taxes, 138
occupation tax, 241
regressivity, 295–96
reassessment, 404–5, 407
royalties tax, 241
sales-value check, 286–87, 451
segregation, 251–52, 257, 260
specific tax, 219
tax commission, 177, 179–80, 236, 241, 266, 336, 365, 392, 397, 400, 402–4, 422–23, 438, 485
tax rates, 460, 465, 470–71, 484–85
uniformity, 163, 165, 177

Mississippi
assessment, 332, 365
collections, 309, 314, 317
constitution, 37–38, 40, 161–63
exemption, 117, 153
intangibles, 117, 119, 122
tax commission, 365, 397
uniformity, 161–63

Missouri
assessment, 332, 334–35, 340, 344, 350, 358, 413
average value, 219
central assessment, 420–21
constitution, 37, 40, 162, 370, 381, 420
equalization, 365, 370–71, 380–81
farm taxes, 94
intangibles, 117, 119, 122
tax commission, 365, 370, 380–81, 397, 420
tax rates, 461, 463–64
uniformity, 162, 165

Mitchell, G. W., 164, 285, 287, 385

Modifications in tax base, 487–90

Moll, Bruno, 48, 51, 86

Moneyed capital
"competing," 205, 207–10
taxpaying capacity, 204

Montana
assessment, 274–76, 332, 349, 444, 448
banks, 210
board of equalization, 181, 240, 324, 365, 397
classification, 173, 175, 177, 181–82, 220, 223
collection, 311, 313–14
constitution, 41, 161
delinquency, 324–25, 328
equalization, 365
exemption, 127
intangibles, 118, 124, 274–75
tax rates, 461
uniformity, 161, 163, 165

Mortgages
chattel, 107
domestic exempt, 118, 198
evasion by, 120, 194
real estate, 107, 194
recording tax, 175, 191, 194

Multiple taxation, 55, 122, 205, 277–79

Municipal assessors, 335, 340

National Conservation Commission, 230–31

National income
percentage taken by all taxes, 15, 17, 95
percentage taken in property taxes, 15, 17

National Industrial Conference Board, 2, 13–15, 17, 98–99, 134–35, 166, 310, 314, 317, 331, 361, 364, 378, 394, 474

National Tax Association
Bulletin, 2, 84, 171, 211, 220, 454, 472–73
Committee on Forest Taxation, 231
Committee on Tax Exemption, 125, 137, 143
Committee on Uniform Listing of Real Estate, 222–23
Proceedings, 36, 99–100, 105, 108, 125, 137, 143, 166, 181–82, 187, 191–93, 200–201, 210, 212, 215, 218, 222–26, 231–32, 236–37, 243, 245, 249, 256, 267, 274, 293–94, 302, 323, 348, 360, 436, 440, 447–48, 451–52, 456–57, 462–63, 476, 489, 492

National Tax Foundation, 331, 394
Nebraska
  assessment, 276, 287, 305, 332, 335, 338, 392
  average value, 219
  banks, 206, 209
  central assessment, 419–20, 438
  classification, 175, 197
  constitution, 40, 42, 102
  equalization, 365, 370, 382
  exemption, 138, 141, 152
  farm taxes, 70–72
  intangibles, 119–20, 122, 124
  sales-value check, 286–87
  tax commission, 365, 382, 397, 438
  uniformity, 163, 165
Nelson, R. W., 164, 285, 287, 384
Nevada
  assessment, 332, 424, 447
  collection, 311, 313–14, 327
  constitution, 40, 160
  equalization, 365, 370
  exemption, 127, 141, 152
  intangibles, 107–8, 117–19
  tax commission, 365, 370, 397
  uniformity, 161, 165
New Amsterdam, 34
New England
  assessment, 334, 342, 442
  apportionment, 460
  equalization, 369, 371
  exemption, 128, 137, 156
  savings bank deposits, 115, 175, 215–16
  tax rates, 464–65
New Hampshire
  assessment, 332, 338, 434
  banks, 215
  classification, 175–76
  collection, 311, 314
  colonial tax system, 27–30
  constitution, 36, 42, 101–2
  equalization, 365, 368
  exemption, 138
  farm taxes, 81
  imprisonment for taxes, 307
  intangibles, 115, 118, 122
  motor vehicle taxes, 138
  tax commission, 365, 397, 399
  tax rates, 460
  uniformity, 165
New Jersey
  assessment, 332, 349, 444
  banks, 206, 215
  board of taxes and assessment, 365, 397, 400
  classification, 174–75
  collection, 309, 311–14
  colonial tax system, 35
  constitution, 36, 38, 40, 162–63
  equalization, 365
  exemption, 139
  farm taxes, 94
  imprisonment for taxes, 307
  intangibles, 115, 117, 119, 122
  motor vehicle taxes, 138
  segregation, 247, 254
  tax rates, 460
  uniformity, 163, 165
New Mexico
  assessment, 332, 340, 348, 447
  classification, 175, 197
  collection, 312–13
  constitution, 42
  equalization, 365
  exemption, 127, 141
  intangibles, 115, 119
  mineral property, 240
  tax commission, 365, 397
  tax rates, 461–62
  uniformity, 163, 165
New Orleans, 368
New York
  assessment, 265–66, 285, 333, 335, 340, 343, 347, 394, 413, 415
  banks, 206, 209–10, 215
  central assessment, 419, 434–35
  classification, 175, 194
  collection, 309, 313, 315
  colonial tax system, 34
  Committee on Taxation and Retrenchment, 128–29, 135, 139, 144–46, 150, 435
  constitution, 36, 38, 42
  equalization, 365, 371, 378, 381, 383–85
  exemption, 125, 128–29, 139, 141–42, 157, 159
  farm taxes, 70–72
  forest property, 232
  intangibles, 114–15, 119–20, 122, 168, 194
  motor vehicle taxes, 138
  quitrents, 20
  segregation, 244–45, 254, 260
  "sucker sales," 63
  tax commission, 129–32, 137, 140–41, 145, 163, 194, 245, 328, 331, 365, 377, 381, 394, 397, 400, 403–4

tax delinquency, 327–28
tax rates, 460, 464
uniformity, 163, 165
New York City, 453, 465
Newcomer, Mabel, 74, 76, 243–44, 254, 491
Non-listing
early conditions, 263–64
effects of low rates, 275–76
index of, 276
intangibles, 272–74
penalties for, 347–50, 354, 358
public opinion and, 279
real property, 262
tangible personalty, 265, 267–72
North Carolina
assessment, 275, 333, 335, 350, 421
banks, 206
collection, 309, 312, 314, 316
colonial tax system, 33
commissioner of revenue, 398
constitution, 36, 40, 162–63
equalization, 365, 371, 378, 382, 385, 438
farm taxes, 82
intangibles, 114–15, 119, 122, 202
quitrents, 33
segregation, 247
Tax Commission of 1928, 202, 275, 316, 320, 331, 378, 438
tax delinquency, 320–22, 324, 326
uniformity, 162–63, 165
North Dakota
assessment, 332, 392, 447–48
central assessment, 419–20, 438
classification, 175, 195, 220
collection, 311, 313–14
constitution, 41–42
equalization, 365, 371, 382
exemption, 127, 138, 141, 151–52
farm taxes, 94
intangibles, 114, 118, 122
motor vehicle taxes, 138
tax commission, 398, 438, 447
tax rates, 462, 465
uniformity, 161, 165
Northwest Territory, 43

Ohio
assessment, 275, 333, 337–38, 349–50, 353–54, 356, 358, 392, 435, 442
classification, 175, 177, 183, 197
collection, 312–14, 354
Committee of 1926, 320, 322
constitution, 37, 39, 42, 45, 103, 162
debt control, 472, 476
distrust of legislature, 45
early tax system, 43–44
equalization, 361, 365, 368, 372, 378
exemption, 107, 116, 141
farm taxes, 70–72, 94
intangibles, 114, 120, 122, 204
Smith law, 469
tax commission, 275, 319, 365, 398, 400
tax delinquency, 319–22
tax rates, 462, 468–69, 471–72, 476
uniformity, 44–45, 162, 165
Oklahoma
assessment, 333, 355, 358, 419
average value, 219
board of equalization, 365, 398, 400
classification, 175, 196
collection, 313–15
equalization, 365, 368–70
exemption, 127, 141
intangibles, 108, 117, 120, 122–23
mineral property, 239
segregation, 247
tax rates, 462, 464–65
uniformity, 163, 165
Oregon
assessment, 281, 333, 430
banks, 209, 210
collection, 229, 309, 314–15
constitution, 39, 161, 463
equalization, 365, 382
exemption, 141, 151
farm taxes, 70–72
intangibles, 108, 114, 118, 122
motor vehicle taxes, 138
tax commission, 365, 382, 398–99
Tax Commission of 1905, 463
Tax Commission of 1923, 282, 463
tax rates, 460, 462–64
uniformity, 161, 165

Pacific Coast states, 232
Palo Verde, Calif., 328
Parker, Coralie, 33–34, 68
Pennsylvania
anthracite coal, 241
assessment, 276, 333, 337, 342, 419
classification, 175, 189–91, 220
collection, 309, 314
colonial tax system, 35
constitution, 36, 38, 42, 102
equalization, 365, 371, 382

Pennsylvania—*Continued*
exemption, 141
farm taxes, 82
intangibles, 120, 122, 190–91
motor vehicle taxes, 138
railroad property, 415
secretary of revenue, 398–400
segregation, 247, 260

Personal property
discrimination, 306
definition, 106–9
transformation of, 109

Peterson, William, 236, 448

Pettis, C. R., 232

Phelan, R. V., 348, 374, 436

Philadelphia, 325

Phillips, J. B., 293, 302

Pigou, A. C., 83

Plehn, C. C., 65, 168, 243, 249, 252, 255 280, 479

Political adjustments needed
administration, 492
constitutional flexibility, 491
supplementary taxes, 492
taxing units, 491

Poll taxes, 27–30, 32–34, 45

Powers, L. G., 222

Property tax concepts
a capital levy, 85
on equities, 49–50, 167–71
European forms, 85–86
a fixed charge on property, 75, 248
a hybrid tax, 48
on possessions, 49, 104–5, 118, 168–71
property taxation sound, 59, 77
in relation to income, 96–97, 220
a specific tax, 448
a supplementary tax, 85

Property taxes
burden of and administration, 95
medieval literature on, 84
and personal misfortunes, 96
and the price level, 88
rationalization of
on benefit principle, 78–79, 82
as a cost charge, 220
as established taxes, 75
on principle of ability to pay, 83
and variable incomes, 96

Property tax revenue
amount, 2–4, 6, 10, 12
per capita, 2, 4, 6, 9–10
percentage of all taxes and special assessments, 2–6, 9–10, 12, 14
percentage of national income, 15, 17, 75
by political units
all units, 15, 17
cities, 9–11
counties, 6, 16
other American units, 11–12, 16
other countries, 85
school districts, 11–12
states, 4, 15

Providence, R. I., 440–41

Public utility property
assessment, 415
judicial relief, 304
municipalized, 142
overassessment alleged, 304
special taxes, 121

Purdy, Lawson, 453, 483

Quitrents
definition, 20
effects upon property taxation, 21, 68
revenue, 20, 33, 68
similarity to taxes, 68

Real property
definition, 105, 107–9
discrimination, 306
transformation of, 109

Reassessment
applied in
Illinois, 408–13
Michigan, 405–7
Minnesota, 404–5
Wisconsin, 407–8
court decisions, 405, 407–8
definition, 404
effects of, 405–6, 411–13
as last resort, 404, 407
opposed, 407–8
restrictions, 406–7, 413
substitute, 408, 414

Reeves, C. E., 452, 455–56

Regressivity, 294–96

Relief in court, 304–5, 358, 363, 366

Reutter, Herman, 85

Rhode Island
  assessment, 276, 333, 358, 419
  banks, 215
  classification, 175
  constitution, 39
  equalization, 365–66
  exemption, 137, 140, 152
  intangibles, 114, 120, 122
  tax commission, 365, 398
  uniformity, 165
Ricardo, David, 62
Rightor, C. E., 87
Ripley, 32, 263, 345
Robinson, M. H., 28–30
Rocky Mountain Division, 138, 239–40
Roosevelt, F. D., 145

Saint, J. E., 447
Saladin tithe, 23
Sales-value
  check upon assessment, 285, 289–300, 302–3, 375–76, 380, 383, 410–12, 451, 454
  failure to use, 377, 383
  growing use of, 286, 449
  informational stamp tax, 384
  limitations of, 285, 384
  obtaining and sifting data, 384–85
Saxe, Martin, 213
Schanz, Georg, 96
Scheftel, Yetta, 199
Schwab, J. C., 34–35, 347
Scotland, 22
Scutage, 24
Section 5219, *R.S.U.S.*, 204–8, 212
Segregation
  as a fiscal policy, 247, 260
  definition, 243–44, 248
  effects of, 247, 250–59, 479
Seligman, E. R. A., 48, 52–53, 56, 60, 84, 96, 121, 166, 479
Simpson, H. D., 285, 303, 379, 385, 411–12, 456
Single-tax classification, 199–200
Solvent credits, 55
South Carolina
  assessment, 333, 335, 338, 340, 351
  average value, 219
  collection, 314
  constitution, 36, 40, 161–62
  equalization, 351, 365, 368–69
  exemption, 152
  intangibles, 115, 117, 119, 122
  mineral property, 239
  tax commission, 365, 398
South Dakota
  assessments, 275–76, 333, 392, 424
  classification, 173, 175, 195
  collection, 313, 317
  constitution, 41–42, 103
  director of taxation, 365, 398
  equalization, 365, 371–72, 382
  exemption, 127, 138, 141, 152
  farm taxes, 70–72, 94
  intangibles, 108, 120, 122, 204, 274
  tax rates, 462
Spurrier, Leo, 404, 406
Standardization of taxable units, 445–48
State taxes, 189, 432–33
Statutory valuations, 27–30, 44, 46
Stokes County, N.C., 378
Substitute taxes
  bushel tax, 138
  franchise tax, 256–57
  gross receipts tax, 138, 238–39, 250–52, 432–33
  motor vehicle taxes, 138
  net receipts tax, 238, 240
  severance tax, 238–39, 242
  tonnage tax, 238
  yield tax, 138
Supplementary taxes
  gasoline tax, 98
  income tax, 98
  occupation tax, 241
  privilege tax, 241
  royalties tax, 241
  sales tax, 98
Switzerland, 95–96

Tax bases
  New England composite, 28, 97
  readjustment through segregation, 248
Tax commissions
  agencies for
    administration, 401
    assessment, 418–20
    equalization, 364–65, 370, 437–38
    reassessment, 404–14
    supervision, 400–404
  appointment of, 396–98
  functions, 394
  ex officio, 396, 399

Tax commissions—*Continued*
reports of, 117, 130–32, 137, 140, 142–43, 145, 149, 159, 177, 179, 181, 195, 202, 236, 245, 266, 275–76, 288, 298, 319, 324, 328–29, 331, 336, 338, 375, 377, 381, 384, 389, 392, 394, 402, 408, 413, 424, 446
salaries, 399–400
term of office, 396–99

Tax day, 219, 332–33

Tax delinquency
accessories to, 308, 325–30
causes of
economic decadence, 326–27
excessive assessments, 329
excessive expenditures, 328
localization of functions, 328
personal conditions, 325
tax administration, 325–26
compromises, 307
expropriation, 330
extent of, 318–22
forest property, 226–29
increase of, 319–21
motives for non-payment, 307
motor vehicle, 324
personal property, 323–25
real property, 321–23
sectional variations, 320–22
taxpayers' strike, 307

Tax ferrets
character of, 355
compensation of, 354
definition, 353
objections to, 356–57

Tax liability
all persons and corporations, 101
all property, 102
corporate property, 121
franchises, 113
intangibles, 113–14, 121
interstate commerce, 111
prohibited exemptions, 103
public property, 108

Tax lien, 317–18

Tax limitations
alternatives, 475–77
debt increments, 472, 474, 476
effects of, 470–76
ineffective, 473–74, 476, 479
purposes to check
appropriations, 469–70
evasion, 469, 471
expenditures, 468

Tax rate
average for certain cities, 87
and capital value, 64–65, 248
delinquency allowance in, 463
differential, 55, 57–58, 75, 173, 180
limitations, 459, 461–62, 464–65
local, 193, 248, 251, 464–65, 466–72
mathematical functions, 459
mill levies, 466
minimum, 464–66
North Chicago, 467
state, 193, 460–63
state average, 196
temporal variations, 75

Tax relief, 77

Tax systems, 20, 21, 97

Taxable capacity, 83–84, 89–92

Taxable situs
business situs, 111
for railroad property, 418
for taxes *in personam*, 42–53, 105
for taxes *in rem*, 105

Taxable value
annual average, 219
capitalized earnings, 430–31
security values, 431–32
standards, 165, 442
replacement cost, 429–30
See also Market value and Statutory valuation

Taxes
apportioned, 460
as charges upon local property, 248
on enumerated property, 27, 35, 467
as forecastable costs, 75
as insurable hazards, 56
in personam, 49, 51, 171–72, 205
in rem, 49, 50, 171–72, 205, 317, 489
specific, 219

Tennessee
assessment, 333, 350, 355
average value, 219
central assessment, 418–19, 421
collection, 309, 314–15
constitution, 37–38, 40, 161–62
equalization, 365, 369–70, 382
exemption, 136, 141, 152
intangibles, 117–18, 122
superintendent of taxation, 398
uniformity, 161–62, 165

Texas
  assessment, 333, 342, 344, 346, 348, 352, 355, 358, 395, 418
  Austin, 267–68, 272
  collection, 309, 314
  constitution, 39, 102–4, 162, 345, 418
  equalization, 365, 367
  exemption, 114, 141
  intangibles, 115, 119, 122
  non-listing, 263–64, 267–69, 272
  state tax board, 395, 398, 400
  tax rates, 462, 464
  uniformity, 162, 165
Thorpe, F. N., 36
Tobin, C. J., 245, 456
Township assessor, 332–36, 340
Trabue, E. F., 105
Tunell, G. G., 436
Turner, S. H., 22

Undervaluation, 281–82, 284
Unequal assessments, 287–93
Uniformity and universality
  definition, 160
  not necessary to equity, 59, 317
  in the tax rate, 161, 173
  in the valuation, 162, 173
U.S. Department of Agriculture, 68–72, 81–82, 93–94, 226
Utah
  assessment, 333, 444, 448
  classification, 175, 197
  collection, 311, 314, 327
  constitution, 41–42, 102, 161
  equalization, 365, 369, 371
  exemption, 127, 141
  farm taxes, 70–72
  intangibles, 114–15, 118–19, 122, 124, 167
  mineral property, 236
  tax commission, 365, 398
  tax rates, 462–63
  uniformity, 161
  unit rule assessment, 428

Valuation
  bases, 429–32
  circulating capital, 219
  forest property, 225
  mining property, 234
Van Sickle, J. V., 221
Vaughan, George, 236
Vaughn, L. M., 326
"Vermögenssteuer," 50–51, 85, 488
Vermont
  assessment, 276, 333, 342, 347, 351, 362
  banks, 215
  classification, 175
  collection, 309, 314
  constitution, 36
  equalization, 361, 365, 367
  exemption, 152
  intangibles, 119–20, 122–23, 274
  motor vehicle taxes, 138
  tax commission, 365, 398, 400
Virginia
  assessment, 263, 274, 276, 298, 301, 306, 333, 337–38, 340, 345, 419, 443
  banks, 207
  classification, 175, 177, 187–89
  collection, 311–12, 314
  colonial tax system, 32–33, 345
  constitution, 38–40, 102
  equalization, 365–66
  farm taxes, 82, 306
  intangibles, 120, 122, 188, 274
  quitrents, 20
  segregation, 247
  Special Tax Commission of 1911, 166
  tax commission, 338, 365, 398
  uniformity, 163, 165
Virtue, O. G., 197

Walker, Francis, 52, 169
Warren, G. F., 327
Washington
  assessment, 333–34, 423
  banks, 209
  classification, 175–76
  collection, 227, 311, 313–14
  constitution, 41–42, 102–3
  equalization, 365
  exemption, 117, 141, 151
  farm taxes, 94
  intangibles, 107–8, 114, 117, 122
  tax commission, 365, 398, 403
  tax rates, 460
  uniformity, 161–63, 165
Wells, D. A., 54, 59, 169, 479–80
Wendell, J. A., 194
West Virginia
  assessment, 289–93, 333, 344
  central assessment, 419, 421, 435

West Virginia—*Continued*
collection, 309, 314
constitution, 40, 161–62
equalization, 365, 367
exemption, 141, 153
forest property, 233
intangibles, 114–15, 119, 122
mineral property, 238
reassessment, 405, 413
sales-value check, 289–92
segregation, 247
tax commissioner, 398, 413, 435
tax rates, 462–63
uniformity, 161–62, 165
Westchester County, N.Y., 145
Williamson, K. M., 216
Wisconsin
assessment, 254, 285, 287, 302, 333, 347–48, 358, 444
banks, 208–9
central assessment, 421, 423, 425, 430, 432, 436, 438
collection, 309, 314–15, 327
constitution, 39
equalization, 365, 368, 374–76, 377, 383–85, 438
exemption, 114–15, 117, 136, 153–54
farm taxes, 70–72, 79
income tax, 99, 485–86
intangibles, 107–8, 114–15, 117–19, 122
mineral property, 235, 239
railroad taxation, 415
reassessment, 407–8, 413
sales-value check, 287
specific tax, 219
tax commission, 375, 384, 398, 400, 402, 404, 408, 438
tax rates, 461
uniformity, 165
Wolcott, Oliver, 35
Wood, F. A., 347
Worthington, T. K., 342
Württemberg, 85
Wyoming
assessment, 333, 419, 447
average value, 219
board of equalization, 365, 398
collection, 311, 313–14
constitution, 41, 102, 162
exemption, 127, 141, 153
intangibles, 117–18, 122
mineral property, 239
tax rates, 462, 464
uniformity, 162, 165

Young, A. A., 98
Young, H. J., 299
Young, L. E., 235
Youngquist, G. A., 211
Youngstown, Ohio, 472

Zürich, 96

PRINTED IN U·S·A